

## Chapter 20

**SUBDIVISION REGULATIONS\***

**Art. I. In General, §§ 20-1 - 20-40**

**Art. II. Park Land Dedication, §§ 20-41 - 20-65**

**Art. III. Escarpment Development Regulations, §§ 20-66 - 20-77**

**ARTICLE I - IN GENERAL****Sec. 20-1. Definitions.**

For the purpose of this chapter the following terms, phrases, words, shall have the meanings given herein. Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices.

- *Addition* shall mean one (1) or more lots, tracts or parcels of land.
  - *Alleys* are minor ways, which are used primarily for vehicular service access to the side properties otherwise abutting on a street, and for all utilities with exception and sewer utilities.
  - *Arterial* streets and highways are those, which are used primarily for fast or heavy traffic, and which are designated in the master plan as Class 1, Class 11, expressway or freeway.
  - *Base flood* shall mean the flood having a one (1) percent chance of being equaled or exceeded in any given year.
  - *City engineer* shall mean that person or group of persons or consultants or any employee thereof that has been appointed as city engineer by the city council.
  - *City manager* shall mean that person appointed by the city council to serve as the chief administrative officer for the city government.
  - *Collector streets*, Class III, are those which carry traffic from minor streets to major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development and which are designated in the master plan as secondary streets.
  - *Construction* shall mean installation of city maintained facilities.
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- Cul-de-sac is a short minor street having but one (1) vehicular service access to another street and terminated by a vehicular turnaround.
  - *Dead-end street* is a street, other than a cul-de-sac, with only one (1) outlet.
  - *Development* shall mean any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, paving, drainage or utility improvements.
  - *Drainage way* shall mean all areas beneath a ground elevation defined as being, the highest elevation of the following:
    - (1) One (1) foot above the base flood, calculated by the city's criteria.
    - (2) One (1) foot above the elevation required for the peak discharge for the one hundred-year design flood, Alternate C, of the Mood Insurance Study, U.S. Department of Housing and Urban Development, and Federal Insurance Agency.
    - (3) The top of the high bank.
  - *Easement* shall mean a right granted for the purpose of limited public or semi-public use across, over or under private land.
  - *Engineer* shall mean a person duly authorized under the provisions of the Texas Engineering Practice Act, as heretofore or hereafter amended, to practice the provision of engineering.
  - *Feeder lines* shall mean those electric lines that emanate from substations to distribute power throughout an area.
  - *Final plat* shall mean a plat of a subdivision which has been approved in accordance with the requirements of these regulations and which has been filed for record with the county clerk of Dallas or Ellis County.
  - *Floodplain* shall mean any land area susceptible to being inundated by water from the base flood.
  - *Floodway* shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
  - *Lateral lines* shall mean those electric lines that emanate from a feeder line and used to distribute power to smaller area of electric consumers. These electric lines are normally connected to a feeder line through a sectionalizing device such as a fuse or disconnect switch.
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- *Lot* shall mean land occupied or to be occupied by a building and its accessory buildings and including such open spaces as are required by ordinances of the city and having its principal frontage upon a public street or officially approved place.
  - *Lot of record* shall mean a lot, which is part of a subdivision, the plat of which has been recorded in the office of the county clerk of Dallas or Ellis County, or parcel of land, the deed for which was recorded in the office of the county clerk of Dallas or Ellis County prior to March 25, 1986.
  - *Marginal access streets* are minor streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.
  - *Minor streets* are those, which are used primarily for access to abutting properties.
  - *Planning and zoning commission* shall mean the agency appointed by the city council as an advisory body to it relative to zoning, platting and planning matters and the physical development of the city and its environs and designated by the city charter as the planning and zoning commission.
  - *Platting* shall mean the plat of an addition or subdivision to the city filed for record in the county where the addition or subdivision is situated.
  - *Public service director* shall mean the individual in the public services department with responsibility for inspection and approval of construction of development projects.
  - *Re-platting* shall mean the arrangement of any part or all of any block or blocks of a previously platted subdivision, addition, lot or tract.
  - *Sepia* is three-mil diazo process polyester Film sepia.
  - *Service lines* shall mean those electric lines, which through a transformer connect a lateral line to a customer's service entrance.
  - *Standards* shall mean the official maps, master plans, ordinances and specifications of the city.
  - *Streets and alleys* shall mean a way for vehicular traffic, whether designated a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.
  - *Subdivision* shall mean the division of any tract or parcel of land into two (2) or more lots for the purpose of building development, expressly excluding development for agricultural purposes, and shall include re-subdivision. Lots combined for use as one (1) lot for development must be replatted into one (1) lot. Subdivision shall also mean the division or
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re-subdivision of an existing subdivision together with any change of lot size therein or with the relocation of any street. Subdivision does not include the division of land for agricultural purposes in parcels or tracts of ten (10) acres or less. A division of land for single-family use, which does not involve the creation of any new street, alley, easement, or access for building sites shall not be deemed a subdivision.

- *Surveyor* shall mean a licensed state land surveyor or a professional land surveyor authorized by the land surveying practice act to practice the profession of surveying.

*(Ord. No. 86-846, § II (III), 3-25-86; Ord. No. 94-194, § 1, 9-27-94)*  
*Cross reference-Definitions and rules of construction generally, § 1-3.*

### **Sec. 20-2. Compliance with chapter.**

All land within the limits and/or legal jurisdiction of the city shall be developed in accordance with the rules and regulations set out in this chapter. It shall be unlawful for any owner, or agent of any owner, to subdivide or plat any land into lots, blocks and streets, or to sell property therein and thereby, which has not been platted or subdivided in accordance with this chapter.

*(Ord. No. 86-846, III, 3-25-86)*

### **Sec. 20-3. Division of land to be under supervision of the city.**

- (a) All land not heretofore subdivided into lots, blocks and streets within the city and its extraterritorial jurisdiction shall hereafter be laid out under the direction of and approved by the city council upon recommendation of the city planning and zoning commission in accordance with the rules and regulations herein contained. No right-of-way, street, alley, utility, or drainage improvements shall be recognized, accepted or serviced by the city unless such right-of-way and improvements are officially approved by the city, provided further, no building permit or certificate of occupancy shall be issued unless such building or structure is located on a lot which conforms to the rules and regulations herein contained.
- (b) Prior to the plat being considered by the city planning and zoning commission and city council, the plat will be reviewed by the city manager or his designated representative and city engineer for recommendations.
- (c) No officer or employee of the city shall do, or cause to be done, any work upon any street or in any addition or subdivision of the city unless all requirements of these regulations have been complied with by the owner of such addition or subdivision.

*(Ord. No. 86-846, § 11(l), 3-25-86)*  
*(d) Repealed*  
*(Ord. No. 05-249 § 1 08/30/05)*

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**Sec. 20-4. Withholding improvements.**

It shall be the policy of the city to withhold all city improvements, including the maintenance of streets and the furnishing of sewage facilities and water service, from all additions, the platting of which has not been officially approved by the city council. Improvements should not be initiated until approved by the city council.

*(Ord. No. 86-846, § II (II), 3-25-86)*

**Sec. 20-5. Filing fees for preliminary and final plat.**

- (a) The following schedule of fees and charges shall be collected by the city and when any preliminary plat is tendered to the city council, and each of the fees and charges provided for herein shall be paid in advance, and no action of the city council or any other board or agency shall be valid until the fees have been paid to the city.
- (1) Preliminary plats: All preliminary plats shall be one hundred fifty dollars (\$150.00) per plat, plus ten dollars (\$10.00) per lot.
  - (2) Final plats: All final plats shall be three hundred dollars (\$300.00) per plat, plus ten dollars (\$10.00) per lot.
  - (3) Other plats: All other plats for land studies, industrial, commercial, or multiple dwellings shall be five dollars (\$5.00) per acre per plat.
  - (4) Replat. - Filing fees for all replats shall be the same fee as for final plats.
- (b) These fees shall be charged on all plats regardless of the action taken by the city, whether the plat is approved or denied.
- (c) The money collected shall defray the cost of administrative, technical, and clerical services necessary to properly investigate and process the plats and replats of subdivisions.

*(Ord. No. 86-846, § II (IV), 3-25-86; Ord. No. 95-17, § 1, 8-8-95)*

**Section 20-6 Application Review Procedures**

- (a) Completeness Determination. Every application for approval of a master plat, preliminary plat or final plat shall be subject to a determination of completeness by the planning director. No application shall be accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of these Subdivision Regulations. The director from time to time may identify additional requirements for a complete application that are not contained within but are consistent with the application contents and standards set forth in the Subdivision Regulations. The director also may promulgate a fee for review of the application for completeness.
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- (b) Incompleteness as Grounds for Denial. The processing of an application by any City official or employee prior to the time the application is determined to be complete shall not be binding on the City as the official acceptance of the application for filing, and the incompleteness of the application shall be grounds for denial or revocation of the application. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of these Subdivision Regulations.
- (c) Pre-application Conference. A property owner may request a pre-application conference with the director for purposes of identifying requirements that are applicable to a proposed plat. The request shall be made in writing on a form prepared by the director and shall state that any proposed development concept discussed at the pre-application conference is not intended as a plan of development or application for plat approval.
- (d) Time for Making Determination. Following submission of a plan of development or plat application, the planning director shall make a determination in writing whether the plan or application constitutes a complete application for a master plat, a preliminary plat or a final plat not later than the tenth business day after the date the application is submitted. The determination shall specify the documents or other information needed to complete the application and shall state the date the application will expire if the documents or other information is not provided.
- (e) When Deemed Complete. An application for approval of a master plat or preliminary plat that is filed on or after April 28, 2005, or any subsequent preliminary plat or final plat application filed after approval of such master plat or preliminary plat, shall be deemed complete on the 11th business day after the application has been received, if the applicant has not otherwise been notified that the application is incomplete.
- (f) Time for Completing Application. If an application is not completed on or before the 45th day after the application is submitted to the planning director for processing the application in accordance with his or her written notification, the application will be deemed to have expired and it will be returned to the applicant together with any accompanying documents. Thereafter, a new application for approval of the master plat, preliminary plat or final plat must be submitted. The City may retain any fee paid for reviewing the application for completeness.
- (g) Vested Rights. No vested rights accrue solely from the filing of an application that has expired pursuant to this section, or from the filing of a complete application that is subsequently denied.
- (h) Official Filing Date. The time period established by state law or these Subdivision Regulations for processing or deciding an application shall commence on the official filing date. The official filing date for the decision of the Planning and Zoning Decision on a plat application shall be the date that a complete application has been accepted for filing under this section. The official filing date for the decision of the City Council on a plat application shall be the date that a final decision has been rendered by the Commission on the application.
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*(Ord. No. 86-846, § II (V), 3-26-86; Ord. No. 94-194, § 2, 9-27-94)*  
*(Ord. No. 05-249 § 2 08/30/05)*

### **Sec. 20-7. Annexation.**

If the property is not within the city limits and the owner desires that it be annexed so as to be qualified to receive city services, when available, and be afforded zoning protection, the owner must petition the city for annexation through lawful annexation proceedings.

*(Ord. No. 86-846, § II (VI), 3-26-86)*

### **Section 20-8. Zoning**

Notwithstanding any other provision of this Subdivision Ordinance to the contrary, an application for a master plat, preliminary plat or final plat shall not be considered complete unless accompanied by a copy of the zoning ordinance or other certification verifying that the proposed use and lot dimensions for which the application is submitted is authorized by the zoning district in which the property is located.

*(Ord. No. 86-846, § II (VII), 3-25-86)*  
*(Ord. No. 05-249 § III, 08/30/05)*

### **Section 20-9. Master Plat Procedures** *(Ord. No. 05-249 §3 08/30/05)*

- (a) Purpose and effect. The purpose of a master plat shall be to delineate the sequence and timing of development within a proposed subdivision, where the tract to be developed will be developed in phases or is part of a larger parcel of land owned by the applicant, in order to determine compliance with the Comprehensive Plan and the availability and capacity of public improvements needed to serve the development. Approval of a master plat authorizes the applicant to submit an application for approval of a construction plat.
  - (b) Applicability. A master plat shall be required for any division of land where proposed development of the tract is to occur in phases, or for land inside city limits, where the land is located within an existing or proposed PD Planned Development District. A master plat may not be accepted for filing and any application that conflicts with the limitations of this section shall be deemed incomplete, if the land subject to the master plat exceeds 150 acres for single family residential developments, or 75 acres for other types of developments. A phasing schedule for the master plat shall not be for more than five (5) years. The limitations on acreage and phasing schedule do not apply where the proposed acreage or phasing schedule for the master plat is in conformity with an approved planned development. If the land subject to the master plat is part of a larger parcel, the remaining land shall be shown as a remainder tract, but shall not be included within the master plat.
  - (c) Remainder tract. A remainder tract is that portion of a larger parcel that is not included within the boundaries of a subdivision plat. Remainder tracts shall not be considered lots or tracts of the subdivision. Approval of a subdivision plat shall not constitute approval of
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development on a remainder tract. The City may require that information be submitted for a remainder tract with a master plat application solely for the purpose of determining whether the planned public facilities and improvements proposed to serve the master plat will be adequate. Information concerning remainder tracts may be considered in formulating conditions to approval of the master plat application. Based upon such information, the City may require that additional or less land be included in the subdivision plat in order to satisfy the standards applicable to the plat application. If the master plat is approved, a plat application for a remainder tract shall not be accepted for filing and any application that conflicts with the limitations of this section shall be deemed incomplete until a final plat has been approved for the first phase of the master plat.

(d) Application. An application for a master plat shall be submitted to the planning director, together with fifteen (15) copies of the master plat drawn at a scale of not more than four hundred (400) feet to the inch. If more detailed contour information is not available, the USGS map contours may be used for concept planning purposes in most cases. The application for the master plat shall include the following information:

- (1) Names and addresses of the subdividers, record owner, land planner, engineer and / or surveyor.
  - (2) Proposed name of the subdivision.
  - (3) Location in relation to the rest of the city and boundaries of proposed subdivision.
  - (4) A schematic layout of the entire tract to be subdivided, any remainder tracts and its relationship to adjacent property and existing adjoining developments.
  - (5) Proposed major categories of land use showing existing and proposed zoning.
  - (6) Proposed number of dwelling units and population densities.
  - (7) Proposed and existing arterials and collector streets to serve the land to be platted consistent with the Thoroughfare Plan or proposed amendments.
  - (8) Location of proposed sites for parks, schools and other public uses as consistent with those shown in the Comprehensive Plan.
  - (9) Significant natural drainage features including drainage courses and wooded areas, as delineated on USGS topographic maps or on any other topographic maps showing equivalent information.
  - (10) Significant man made features such as railroad, roads, buildings,
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utilities or other physical structures as shown on USGS topographic maps, utility company records and city records when such features affect the plan.

- (11) Proposed dedication of land or rights of way for and construction of public improvements, whether on site or off site, intended to serve each proposed phase of the subdivision.
- (12) Designation of each phase of development within the subdivision, the order of development, and a schedule for the development of each phase of the master plat.
- (13) A detailed statement of how the proposed subdivision will be served by water, wastewater, roadway and drainage facilities that have adequate capacity to serve the development.

(e) Procedures.

- (1) Planning and Zoning Commission action. After review of the master plat application by the director and the city engineer, the application shall be scheduled for consideration by the Planning and Zoning Commission. The Commission shall decide whether to approve, approve with conditions or deny the master plat application based on the criteria for approval in subsection (f).
- (2) City Council action. Following decision by the Planning and Zoning Commission, the City Council shall determine whether to approve, approve with conditions or deny the master plat application, taking into consideration the action taken by the Commission, and the criteria for approval in subsection (f).
- (3) Conditions. The Commission or the Council may impose such conditions to the approval of the master plat application as are reasonably necessary to assure compliance with the criteria in subsection (f). Such conditions may address but are not limited to matters involving conformity with the City's zoning regulations, the availability and capacity of public improvements, or the phasing of development. In addition to other conditions, approval of the master plat may be conditioned on exclusion of land from the master plat or adjustments in the proposed sequence or timing in the proposed phases of the development.

- (f) Criteria for approval. The following criteria shall be used to determine whether the application for a master plat shall be approved, approved with conditions, or denied:
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- (1) The master plat is consistent with all existing or proposed zoning requirements for the property, including any development plans for a PD Planned Development District and standards of any applicable overlay district, and any approved development or annexation agreements.
  - (2) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities generally conforms to the City's master facilities plans for such facilities.
  - (3) The water, wastewater, roadway and drainage systems serving the development have adequate capacity to accommodate the demands for services created by each phase of the development by the time of final plat approval.
  - (4) The schedule of development is feasible and prudent, and assures that the proposed development will progress to completion within the time limits proposed.
  - (5) The location, size and sequence of the phases of development proposed assure orderly and efficient development of the land subject to the plat. Each phase of the development shall contain the minimum number of dwelling units or quantity of non-residential use to assure that such standard is met.
  - (6) Where the proposed development is located in whole in part in the extraterritorial jurisdiction of the city and is subject to an interlocal agreement under Tex. Loc. Gov't Code Ch. 242, the proposed master plat meets any county standards to be applied pursuant to the agreement.
- (g) Expiration and Extension
- (1) Time of expiration. Expiration of the master plat shall be governed by the schedule of development approved by the City Council. The subdivider shall submit and receive approval for a preliminary subdivision plat for the first and all subsequent phases of the master plat within the time limits prescribed in the approved phasing schedule. Failure to meet a platting deadline included in the phasing schedule, including denial of a plat application, shall result in the expiration of the master plat for that and all subsequent phases of the subdivision. If an approved preliminary plat subsequently expires, the master plat for that phase shall expire, and for all other phases for which a preliminary plat or final plat has not been approved, is not pending for approval or no longer remains in effect.
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- (2) Extension. The expiration date for any phase of the development may be extended by the City Council for a period of not more than one (1) year, provided that a request for extension is made in writing by the subdivider at least thirty (30) days before the approved master plat lapses. Extension of the expiration date for the phase extends the expiration date for the master plat for a like period. Every request for extension shall include a statement of the reasons why the expiration date should be extended. The Council shall take into account the reasons for the requested extension, the ability of the applicant to comply with any conditions attached to the original approval, whether extension is likely to result in timely completion of the project, and the extent to which newly adopted regulations should be applied to the original application. The Council may attach conditions to approval of an extension request such as are needed to assure that the land will be developed in a timely fashion and that the public interest is served, including a requirement that one or more current development standards be applied to subsequent plat applications within the area subject to the master plat.

*(Ord. No. 86-846, § II (VII), 3-25-86; Ord. No. 94-194, § 3, 9-27-94)*

*(Ord. No. 05-249 §4 08/30/05)*

#### **Sec. 20-10. Preliminary plat and plans.**

- a. An application in writing requesting approval of the preliminary plat, together with six (6) copies of the plat and plans, must be submitted to the city secretary with filing fees as provided herein, with written application for conditional approval at least twenty (20) working days prior to the hearing of such application together with twenty (20) reduced copies of plat and plans measuring eight and one-half (8 ½) by eleven (11) or eleven (11) by fourteen (14) inches.
- b. The purpose of the submittal is to allow the city to review overall platting of the tract, water and sewer service, street patterns and other city services within the addition or subdivision for conformance with the requirements of the city. The plat and plans shall be prepared as follows:
- (1) The preliminary plat shall be drawn to a scale of one (1) inch equals one hundred (100) feet or larger, on paper measuring twenty-four (24) by thirty-six (36) inches.
  - (2) It shall contain the name of the proposed addition or subdivision, the name and address of the developer and the engineer or surveyor responsible for the design or survey, the tract designation, and other descriptions according to the abstract and survey records of Dallas or Ellis County.
  - (3) It shall contain a north point, scale, and date.
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- (4) The boundary line of the tract, accurate in scale, shall be shown.
  - (5) It shall show the names of adjacent additions or subdivisions or names of record owners of adjoining parcels, the location, widths, and the names of all existing or platted streets, easements, or other public ways within or adjacent to the tract, existing railroad rights-of-way, and other important features such as section lines, political subdivision or corporation section lines, political subdivision or corporation limits and school district boundaries.
  - (6) It shall show all parcels of land intended to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision, together with the purpose or conditions of limitations of such reservation.
  - (7) It shall show the layout and width of proposed streets, alleys, and easements.
  - (8) It shall show the layout, numbers, and dimensions of proposed lots and all building lines.
  - (9) The location of proposed screening walls should be tentatively indicated.
  - (10) The preliminary plat shall show, contours of the tract in intervals of ten (10) feet or less, referred to sea level datum.
  - (11) The plans shall show existing sewers, water mains, fire hydrants, culverts, or other underground structures within the tract and immediately adjacent thereto with pipe sizes and locations indicated.
  - (12) The Plans shall show proposed water, sanitary sewer and storm sewer pipelines with sizes indicated and valves, fire hydrants, fittings, manholes, inlets, culverts, bridges, and other appurtenances or structures shown.
  - (13) The plans shall show storm-water detention/retention basins as required by the city.
  - (14) The plans shall show all existing floodways and one-hundred-year floodplains.
  - (15) The plat shall show all street names.
  - (16) The plat shall show all park spaces as required by the park dedication ordinance.
- (c) Conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather, it shall be deemed an expression of approval to the layout submitted on the preliminary plat as a guide to the preparation of, the final plat.
- (d) An approved preliminary plat shall expire eighteen (18) months from the date of approval by the City Council, unless a final plat for all of the land subject to the preliminary plat has been approved by the City Council within such period, or
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unless the preliminary plat has been extended. Subsequent expiration of the final plat shall also result in expiration of the preliminary plat for the same land. The Council may extend a preliminary plat for a period not to exceed one (1) year on the written request of the applicant. The request must be filed before the preliminary plat expires and must document the reasons for the extension. In determining whether to grant a request, the Council shall take into account the reasons for the requested extension, the ability of the applicant to comply with any conditions attached to the original approval, whether extension is likely to result in timely completion of the project, and the extent to which any newly adopted regulations should be applied to the proposed development. In granting an extension, the Council may impose such conditions as are needed to assure that the land will be developed in a timely fashion and that the public interest is served, including compliance with one or more new adopted development standards.

- (e) The preliminary plats shall be distributed to the following and evidence of such receipt from each of the following, attached with application:
    - (1) Cedar Hill Independent School District when the plat is within the school district's boundaries or to such other independent school districts as may be affected by the plat (one (1) copy).
    - (2) City engineer (one (1) copy with all plans).
    - (3) City secretary (six (6) copies with all plans) plus twenty (20) reduced copies eight and one-half (8 1/2) by eleven (11) or eleven (11) by fourteen (14) inches.
    - (4) Texas Power and Light Company (one (1) copy).
    - (5) Lone Star Gas Company (one (1) copy).
    - (6) Southwestern Bell Telephone Company (one (1) copy).
    - (7) Dallas/Ellis County commissioner and Dallas/Ellis County public works director if the subdivision is outside the city limits (one (1) copy each).
    - (8) Storer Cable TV (one (1) copy).
  - (f) An application for preliminary plat approval is considered filed with the City when it has been determined to be complete pursuant to Section 20-6.
  - (g) After review of the preliminary plat application by the director and the city engineer, the application shall be scheduled for consideration by the Planning and Zoning Commission. The Commission shall decide whether to approve, approve with conditions or deny the preliminary plat application based on the criteria for approval in subsection (i).
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- (h) Following a decision by the Planning and Zoning Commission, the City Council shall determine whether to approve, approve with conditions, or deny the preliminary plat application, taking into consideration the action taken by the Commission.
  - (i) In deciding an application for preliminary plat approval, the Commission and Council shall take into consideration the following criteria:
    - (1) Where no master land plan has been approved, the following criteria apply:
      - (A) The plat is consistent with all zoning requirements for the property;
      - (B) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities conform to the master facilities plans for facilities, including without limitations the water facilities, wastewater facilities, transportation, drainage and other master facilities plans;
      - (C) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities, and easements and rights-of-ways are adequate to serve the subdivision in accordance with section 20-22;
      - (D) The plat meets all other requirements of these Subdivision Regulations; and
      - (E) The plat meets any county standards to be applied under an interlocal agreement between the City and a county under Tex. Loc. Gov't. Code ch. 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and the county.
    - 2. Where the preliminary plat is subject to an approved master land plan, the following criteria shall apply:
      - (A) The plat conforms to the general layout of the master land plan and is consistent with the phasing plan approved therein;
      - (B) The proposed provision and configuration of roads, water, wastewater, drainage and park facilities, and easements and rights-of-way are adequate to serve the subdivision in accordance with section 20-22;
      - (C) The plat meets all other requirements of these Subdivision Regulations; and
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- (D) The plat meets any county standards to be applied under an interlocal agreement between the City and a county under Tex. Loc. Gov't. Code ch. 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and the county.

*(Ord. No. 05-249 §5 08/30/05)*

*(Ord. No. 86-846, § II (IX), 3-25-86; Ord. No. 94-194, § 4, 9-27-94; Ord. No. 95-217, § 2, 8-8-95)*

**Sec. 20-11. Final plat and plans.**

- (a) Six (6) copies of the final plat and construction plans of the final plat shall be submitted to the city secretary only after all changes and alterations have been made in accordance with the review and acceptance of the preliminary plat. Such plats shall be filed at least twenty-five (25) working days prior to the hearing at which approval is requested. All fees shall be paid at the time of filing.
- (b) The final plat shall contain the following:
- (1) Be drawn to a scale of one (1) inch equals one hundred (100) feet or larger and paper measuring twenty-four (24) by thirty-six (36) inches.
  - (2) The boundary lines with accurate distances and bearings and the exact location and width of all existing or recorded streets intersecting the boundary of the tract.
  - (3) True bearings and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat; municipal, township, county, or section lines accurately tied to the lines of the subdivision by distances and bearings.
  - (4) An accurate location of the subdivision with reference to the abstract and survey records of Dallas or Ellis County.
  - (5) The exact layout including:
    - a. Street names.
    - b. The length of all arcs, radii, internal angles, points of curvature, lengths, and bearings of the tangents.
    - c. All easements for rights-of-way provided for public services or utilities and any limitations of the easements.
    - d. All lot numbers and lines with accurate dimensions in feet and hundredths of feet and with bearings and angles to street and alley lines.
  - (6) Provide one (1) sepia for insertion to scale of city base map.
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- (7) The accurate location, material, and approximate size of all monuments.
  - (8) The accurate outline of the property, which is offered for dedication for public use with the purpose, indicated thereon, and of all property that may be reserved by deed covenant for common use of the property owners in the addition or subdivision.
  - (9) Setback building lines.
  - (10) Special restrictions including, but not limited to, drainage and floodway and fire lanes.
  - (11) Proposed name of the addition or subdivision.
  - (12) Name and address of the developer.
  - (13) North point, scale, and date.
  - (14) Certification by a registered professional land surveyor to the effect that the plat represents a survey made by him and that all the monuments shown thereon actually exist, and that their location, size, and material description are correctly shown.
  - (15) A certificate of ownership and dedication of all streets, alleys, parks and playgrounds to public use forever, signed and acknowledged before a notary public by the owner and Penholder of the land along with complete and accurate description of the land subdivided and the streets dedicated.
  - (16) Additional certificates to properly dedicate easements or rights-of-way as may be necessary.
  - (17) Boundary survey closure and area calculations.
  - (18) The plans shall show all floodplains and floodways.
  - (19) The location of screening walls shall be clearly indicated.
  - (20) The plat shall show all park space as required by the park dedication ordinance.
  - (21) A landscape plan for medians and intersections shall be submitted and shall conform to the guidelines established in this section.
    - a. For residential subdivisions and for nonresidential subdivisions where the landscaping occurs in common areas to be maintained by a property owner's association, the following plans shall be submitted.
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- 1. Medians and intersections landscape plans along principal and minor arterial, residential collector, commercial/industrial secondary streets shall be submitted.
- 2. Subdivision entry features including monument signs.
- 3. Screening walls.
- 4. Irrigation systems are required in all medians and at all intersections.
- b. A certified copy of the owner association agreement and association by-laws where required for maintenance.
- c. The landscape plans shall be prepared by or under supervision of a registered landscape architect in the State of Texas and shall bear his seal on each sheet.
- d. The irrigation plan signed by designed by a license irrigator.
- e. Any change in landscape design during construction shall be made by the landscape architect and shall be approved by the city.
- f. Median and intersection treatment. All medians and intersection shall be landscaped and irrigated with a sprinkler system. When a developer is responsible for the construction of a Median opening and left turn lanes in the median, he shall also be responsible for the costs associated with the landscaping in those portions of the medians affected by the opening.

(22) City approval block shall be placed on the plat as shown below:

<b>CERTIFICATE OF APPROVAL</b>
Approved this ___ day of _____, in the year ____ by the City of Cedar Hill, Texas.
_____
Mayor of Cedar Hill, Texas
_____
City Secretary
_____
Chairman Planning and Zoning Commission

(c) [formerly (d)] (Ord. No. 05-249 §6 08/30/05)

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No application for final plat approval shall be considered complete unless accompanied by a complete set of construction plans prepared by or under the supervision of a registered professional engineer in the State of Texas, bearing his seal and signature on each sheet.

- (1) Cedar Hill Independent School District when the plat is within the school district's boundaries or to such other independent school districts as may be affected by the plat (one (1) copy).
  - (2) City engineer (one (1) copy with all plans).
  - (3) City secretary (six (6) copies with all plans) plus twenty (20) reduced copies eight and one-half (8 1/2) by eleven (11) or eleven (11) by fourteen (14) inches.
  - (4) Texas Power and Light Company (one (1) copy).
  - (5) Lone Star Gas Company (one (1) copy).
  - (6) Southwestern Bell Telephone Company (one (1) copy).
  - (7) Dallas/Ellis County commissioner and Dallas/Ellis County public works director if the subdivision is outside the city limits (one (1) copy).
  - (8) Storer Cable TV (one (I-) copy).
  - (9) U.S. Post Office Cedar Hill, Texas office (one (1) copy).
- (d) The construction plans shall be prepared by or under the supervision of a registered professional engineer in the State of Texas and shall bear his seal and signature on each sheet.  
*(Ord. No. 05-249 §6 08/30/05)*
- (e) The plans shall contain all necessary information for construction of the project, including screening walls. All materials specified shall conform to the standard specifications and standard details of the city.  
*(Ord. No. 05-249 §6 08/30/05)*
- (f) Each sheet of the plans shall contain a title block including space for the notation of revisions. This space is to be completed with each revision to the plan sheet and shall clearly note the nature of the revision and date the revision was made.  
*(Ord. No. 05-249 §6 08/30/05)*
- (g) [formerly (h)] After the review of the plat and plans, the plat shall be submitted to the Planning and Zoning Commission and the City Council for their determination....  
*(Ord. No. 05-249 §6 08/30/05)*
- (h) [formerly (i)] An application for final plat approval is considered filed with the City when it has been determined to be complete pursuant to Section 20-6.
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*(Ord. No. 05-249 §6 08/30/05)*

- (i) After review by the director and the city engineer, the final plat application shall be scheduled for consideration by the Planning and Zoning Commission. The Commission shall decide whether to approve, conditionally approve or deny the final plat application based on the criteria for approval in subsection (k).

*(Ord. No. 05-249 §6 08/30/05)*

- (j) Following a decision by the Planning and Zoning Commission, the City Council shall determine whether to approve, conditionally approve or deny the final plat application, taking into consideration the action taken by the Commission, and applying the criteria in subsection (k).

*(Ord. No. 05-249 §6 08/30/05)*

- (k) In deciding an application for final plat approval, the Commission and Council shall take into consideration the following criteria:

- (1) The final plat conforms to the approved preliminary plat;
- (2) Where public improvements have been installed, the improvements conform to the approved construction plans and have been approved for acceptance by the City Engineer;
- (3) The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in Sec. 20-22; and
- (4) The plat meets any county standards to be applied under an interlocal agreement between the City and a county under Tex. Loc. Gov't Code ch. 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the county.

*(Ord. No. 86-846, § II (X), 3-25-86; Ord. No. 94-194, §§ 5-8, 9-27-94; Ord. No. 95-217, § 3, 8-8-96)*

*(Ord. No. 05-249 §6 08/30/05)*

### **Sec. 20-12. Filing of approved final plat.**

After approval of the final plat by the city council and any correction of the plat as required by the city council, the developer or his engineer shall submit filing fees and the required number of copies for filing with the county clerk. These copies shall bear all signatures of the mayor, the chairman of the planning and zoning commission and the city secretary. Such copies shall show the volume and page of the map and plat records into which the plat was filed by the county clerk. Two (2) mylars and two (2) blue-line plats signed and recorded will be returned to the city. If the final plat has not been submitted for signature by the city officials within six (6) months after approval by the city council, the plat shall be deemed null and void, re-submittal shall be required, and concurrent regulations shall apply.

*(Ord. No. 86-846, § II (XI), 3-25-86; Ord. No. 94-194, § 9, 9-27-94)*

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**Sec. 20-13. Short form for platting.**

Plats meeting the following criteria may, with the approval of the city manager, be approved by the city manager thus not requiring approval by the planning and zoning commission and city council. Failure of the city manager to approve such platting shall require the developer to follow requirements of this chapter. Each of the following conditions shall be met by the developer before the city manager may approve such plat:

- (1) Land which abuts upon a street of adequate width and is so situated that no other street, alley, easement, or other public property is required to meet requirements of this chapter.
- (2) The perimeter of the tract being subdivided has been surveyed and marked on the ground and a plat prepared and filed with the city of which the nearest corner of each lot or parcel of such proposed subdivision is within two hundred (200) feet of a known corner which is adequately marked by a concrete monument or iron stake.
- (3) The topography of the tract and the surrounding land is such that no regard need be given in such subdivision to drainage, or where drainage is required, arrangements have been made for the construction of such facilities which are approved by the director of public services.
- (4) All utilities as required by this chapter to serve each parcel or lot of such subdivision, or such arrangements to provide such facilities have been made and such arrangements meet the approval of the city manager.

*(Ord. No. 86-846, II (XII), 3-25-86)*

**Sec. 20-14. Submittals required for construction.**

Prior to authorizing construction, the public service director and the city engineer shall be satisfied that the following conditions have been met:

- (1) The final plat shall be completed to the requirements of the city council at the time of approval.
  - (2) The developer or contractors shall provide a copy of the certificate of insurance for proof of liability insurance to the city secretary.
  - (3) All necessary offsite easements or dedications required for city maintained facilities not shown on the final plat must be conveyed solely to the city, with proper signatures affixed.
  - (4) All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of approval of the public services department. These plans shall remain on the job site at all times.
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- (5) The public service director and parties participating in the construction shall meet for a pre-construction conference to discuss the project prior to beginning work.
- (6) A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times, must be submitted to the public service director.
- (7) Five (5) prints of the utility, plan sheet, scale one (1) inch equals one hundred (100) feet, measuring twenty-four (24) by thirty-six (36) inches shall be submitted to the public service director, in addition to previous submittal of construction plans.
- (8) Manufacturers' drawings for all fabricated appurtenances or special construction items shall be submitted to the public service director.
- (9) The developer shall provide at his entire expense a geotechnical report acceptable to the public service director pertaining to soil stabilization and other necessary design concerns related to construction of the development. The geotechnical engineering company preparing the report shall be a local firm acceptable to the public service director.
- (10) The developer shall pay to the city a fee for inspection, laboratory tests and administration for the facilities to be constructed. The fee shall be three (cent of the actual construction cost of the facility. The cost includes labor, material and equipment required to construct the facility in accordance with the subdivision regulations. The developer shall provide the city a copy of an itemized contract prepared by the engineer of record.

- (11) All developmental fees must be paid.

*(Ord. No. 86-846, II (XIII), 3-25-86; Ord. No. 92-117, § 1, 5-12-92; Ord. No. 94-154: 10, 11, 9-27-94)*

#### **Sec. 20-15. Development construction.**

- (a) Construction shall be observed by representatives of the public service department. Testing methods and procedures shall be as specified by the North Central Texas Council of Government Standard Specifications for Public Works Construction. ALL construction of public improvements shall be in compliance with the North Central Texas Council of Government Standard Specifications for Public Works Construction in addition to special provisions by the city.
  - (b) Completion of construction to the approved standard specifications for public works construction is the entire responsibility of the developer and the contractors. The responsibility of the public service department is to confirm the conformance to the approved plans and specifications. Any change in design required during construction shall be made by the engineer whose seal and signature are shown on the plans and shall be approved by the public service director.
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- (c) All engineering plans shall conform to the Design Manual for Paving and Drainage and Water and Sewer Lines and the Standard Details for Paving and Drainage and Sewer and Water Lines.

*(Ord. No. 86-846, § II (XIV), 3-25-86; Ord. No. 92-117, § 3, 5-12-92; Ord. No. 94-194, 9 12, 13, 9-27-94)*

**Sec. 20-16. Acceptance of the subdivision.**

- (a) After completion of all items required in the plans and specifications, the contractor or developer shall submit to the public service director a two-year maintenance bond for (50%) fifty-percent of the cost of the facility.
- (b) Acceptance of the development shall mean that title to all improvements is vested in the city. The developer and his contractors shall, however, be bound to the city for a period of one (1) year to repair any defects in the improvements.
- (c) Prior to final acceptance of the subdivision by the city, the developer shall present a letter acceptable to the public service director from the developer's engineer confirming that all construction work in the development was constructed in full compliance with the standard specifications for public works construction. The letter shall also confirm that the quality of the work was verified by materials testing performed in accordance with the city requirements.

*(Ord. No. 86-846, § II (XV), 3-25-86; Ord. No. 92-117, § 2, 5-12-92; Ord. No. 94-194, § 14, 9-27-94)*

**Sec. 20-17. As-built plans.**

Prior to final acceptance by the city of the improvements, the engineer for the developer shall submit to the public service director a complete set of drawings of the paving, drainage, water, sanitary sewer or, other improvements, showing all changes made in the plans during construction and containing on each sheet an as-built stamp bearing the signature of the engineer and the date. In addition, one (1) sepia and two (2) blue lines measuring twenty-four (24) by thirty-six (36) inches, a scale of one (I.) inch equals one hundred (100) feet, drawings of the plat and construction plan sheets containing the as-built information shall be submitted. The developer shall provide to the city, plans and specifications for all signs, walls, sprinklers, etc.

*(Ord. No. 86-846, § II (XVI), 3-25-86)*

**Sec. 20-18. Issuance of Building Permits**

No building permit shall be approved by the City until the land has been finally platted in accordance with section 20-12 and all subdivision improvements within the development have been completed and accepted by the City.

*(Ord. No. 86-846, II (XVII), 3-25-86)*

*(Ord. No. 05-249 §7 08/30/05)*

**Sec. 20-19. Streets and alleys.**

- (a) Streets shall be in line and consistent with existing streets in adjoining developments. Streets shall be made so as to provide continuity with existing streets in adjoining developments. Dead-end streets shall be avoided except where planned for future extension.

Half streets shall be prohibited except as approved by the city in accordance with this chapter. In all cases, the parks and recreation director shall have the right to review and approve the proposed street alignment fronting on city parks and shall in cases where the alignment is unsatisfactory, negotiate a satisfactory alignment with the developer and the city engineer. Minimum right-of-way width shall be as follows:

- (1) Residential streets, (50') fifty-feet.
- (2) Class III thoroughfares, (60') sixty-feet. (Any street serving industrial, commercial, multifamily or school areas shall not be of lesser width provided further Class III thoroughfares generally shall be located every half-mile between Class 11 or I thoroughfares for any type of development.)
- (3) Class II thoroughfares (minor arterial), eighty (80) feet to one hundred (100) feet. (A primary thoroughfare shall generally be located every mile in any type development.)
- (4) Class I thoroughfares (principal arterial), one hundred (100) feet or more, all developments shall provide for permanent roadways, as approved by the director of public services, to all structures prior to construction. (A primary thoroughfare shall generally be located every mile in any type development.)
- (5) Major thoroughfares or any type thoroughfare shall be located according to the city's master thoroughfare plan or as specified by the city council.
- (6)

<u>Right-of-way (feet)</u>	<u>Minimum width of pavement (feet)</u>
50 - Residential street	27-Back to Back
60 - Collector street	37-Back to Back
80-100 - Minor Arterial	24 on each divided lane
100-120 - Arterial	36 on each divided lane if six (6) or more lanes are required

In platting the addition or subdivision, the developer shall provide additional right-of-way required for existing or future streets, including abutting streets, roads, and highways, as shown in the thoroughfare plan or other plan approved by the city council. In the developed areas of the city, the right-of-way provided may be of a minimum width adequate for the actual construction of the roadway and all necessary physical features of the roadway.

- (b) Streets and alleys shall be platted and constructed in accordance with the thoroughfare plan of the city comprehensive plan or other plans approved by the city council, and shall conform to the following general requirements:
  - (1) All streets or thoroughfares shall be constructed in the right-of-way as required by the thoroughfare plan. Where streets are dedicated adjacent to undeveloped land and the property line is normally the centerline of the street, the developer shall provide right-of-way of sufficient width and shall construct paving a minimum width of

twenty-four (24) feet to a maximum width of twenty-seven (27) feet as required by the city. The developer of the adjacent land, when platting the land, shall construct that remaining portion of the street as determined by the city.

- (2) Median openings and left-turn lanes, constructed to serve dedicated streets in a development, or to serve private drives, shall be paved and marked to city standards, inspected by city inspectors and paid for by the developer.
  - (3) Acceleration or deceleration lanes shall be constructed to the same standards as the adjoining street, and the cost of construction shall be the developer's responsibility.
  - (4) Alleys shall be constructed a minimum of ten (10) feet in width within a minimum fifteen (15) foot right-of-way. Wider alleys required for drainage or other purposes, shall be constructed in right-of-ways approved by the public service director. Alley turnouts shall be a minimum of twenty (20) feet in width at the curb-line, or the width of the alley, whichever is greater. Paving in alleys adjacent to masonry screening walls shall be constructed a minimum of twelve (12) feet in width and shall abut the screening wall. Alleys for other than residential uses shall be dedicated and paved a minimum of twenty (20) feet in width. All alleys shall be constructed with pavement of reinforced concrete of three thousand (3,000) psi minimum compressive strength or thirty six hundred (3,600) psi minimum compressive strength. The developer shall construct the full width of the alley at his own costs. Alleys with three thousand (3,000) psi concrete shall be constructed with a minimum thickness of five (5) inches in the invert and eight (8) inches at the edges (average seven-inch thickness), and alleys with thirty-six hundred (3600) psi concrete shall be constructed with a minimum thickness of five (5) inches in the invert and seven (7) inches at the edges (average six-inch thickness.)
  - (5) The sub-grade on all streets and alleys shall be pre-tested by a certified laboratory for soil analyses. The results of these tests will determine the amount of stabilization need for all areas of the project. All streets and alleys shall be compacted and stabilized to ninety-five (95) percent or greater before actual paving is started. When hydrated lime is needed for stabilization, additional laboratory reports will be submitted for P.I. and compaction. All P.I.'s shall be no greater than fifteen (15) on any part of the project. When stabilizing and compacting for street and alley construction the width shall be one (1) foot greater than the back of the curb or one (1) foot greater than the edge of the alley. A minimum depth of six (6) inches lime stabilization below the finish grade will be required before pavement construction is started according to laboratory results. All reports must meet city specifications before construction of streets and alleys. Refer to North Central Texas Council of Governments Standard Specifications Item 5:8 for Portland cement concrete pavement.
  - (6) The city shall be provided landscape plans for all medians by the developer. Plants and ground cover shall be low maintenance and low to the ground. Landscaping shall be approved by the director of public services.
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- (c) When a proposed addition or subdivision of land abuts on both sides of an existing substandard road, street or highway, such road, street or highway being substandard according, to the then existing, current city standards specifications for public works construction, the developer shall be required to improve the existing road, street or highway, including sidewalks, to bring the same to city standards, or to replace it with a standard city street as required by the traffic demand of the proposed addition or subdivision and at no cost to the city.
- (1) If the proposed addition or subdivision is for residential use and is located along only one (1) side of a substandard road, street or highway, the developer shall be required to improve the developer's half of such road, street or highway, including sidewalks, to bring, the same to city standards, at no cost to the city. The minimum half street shall be twenty-two and five-tenths (22.5) feet to a maximum width of twenty-four (24) feet.
- (2) Half streets shall be prohibited, except when essential to the reasonable development of the subdivision, conforming with other requirements of these regulations, and where the city finds it will be practical to require the dedication of the other one-half when the adjoining property is subdivided or developed. Whenever a partial street exists along a common property line, the other portion of the street shall be constructed as required by the traffic demands of the proposed addition or subdivision when that property is developed. New streets of like alignment shall bear the names of existing streets and shall be dedicated at equal or greater widths than the existing street. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the city council.
- (3) Where subdivisions are platted so that the front yard of single-family residential lots are adjacent to a dedicated roadway, the developer shall provide his sole expense one (1) of the following types of treatment:
- a. Reserved.
- b. For streets designated residential, lots may have direct access to the street with no additional development standard required.

*(Ord. No. 86-846, II (XVIII), 3-25-86; Ord. No. 91-104, § 1, 12-10-91; Ord. No. 94-194, §§ 15, 16, 9-27-94)*

**Sec. 20-20. Blocks.**

- (a) Blocks in residential developments shall be platted to allow two (2) tiers of lots.
- (1) The length, width and shapes of blocks shall be determined with due regard to:
- a. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
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- b. Zoning requirements as to lot sizes and dimensions.
  - c. Need for convenient access, circulation, control and safety of street traffic.
- (2) In general, intersecting streets, determining the blocks, lengths and widths shall be provided at such intervals as to serve cross traffic adequately, and to meet existing streets or customary subdivision practices. Where no existing subdivision controls, the block lengths shall not exceed one thousand six hundred (1,600) feet and shall generally be one thousand (1,000) to one thousand two hundred (1,200) feet in length. Where no existing subdivision controls, the blocks shall not be less than five hundred (500) feet in length.
- (3) Where no existing subdivision controls, the block depth shall be platted to give lots with a depth-to-width ratio not more than two and one-half (2 1/2) to one (1) and in no case more than four (4) to one (1), and the platting shall be such that the block width or depth generally shall not exceed five hundred (500) feet nor be less than two hundred fifteen (215) feet. When possible the block width and length shall be such of two (2) tiers of lots back-to-back to an alley
- (4) Pedestrian sidewalks not less than four (4) feet wide shall be provided around the perimeter of all blocks and shall be installed as the property is improved, and shall be of the width and located as provided in this section; provided, however, sidewalks shall not be required to be installed on substandard streets and roads where the permanent grade has not been fixed at the time said sidewalks are to be installed.
- (b) Blocks shall generally not exceed twelve hundred (1200) feet in length. Generally no cul-de-sac shall be developed which exceeds five hundred (500) feet in length measured from the centerline of the street with which it intersects to the center point of the cul-de-sac.

*(Ord. No. 86-846, II (XIX), 3-25-86)*

**Sec. 20-21. Lots.**

- (a) Lots shall conform to the minimum requirements of the established zoning -district. Each lot shall face on a public street.
  - (b) Where corner lots face the frontage street and also other lots face the side street, the corner lot shall have a front building line on both streets, except when an alley is constructed between the lots. Lots shall have sufficient width at the building line to meet the frontage requirements of the appropriate zoning district.
  - (c) Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome a specified disadvantage of topography and orientation. Where lots have double frontage, a front building line shall be established for each street. *(Ord. No. 86-846, II (XX), 3-25-86)*
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**Sec. 20-22. Development requirements.**

- (a) **Storm drainage.** Storm drainage shall be designed in accordance with the standard specifications for public works construction.
- (1) *Residential developments:*
- a. An adequate storm sewer system consisting of inlets, pipes, and/or excavated channels or natural creeks and other drainage structures shall be constructed. Excavated channels and natural creeks shall meet the requirements of e., f. and g. below.
  - b. The developer shall be responsible for all costs of the storm drainage systems.
  - c. The developer shall bear the cost of all channel excavation, inlets, laterals, headwalls, manholes, junction structures and all other items required to complete the system.
  - d. In general, underground drainage shall be constructed in streets and alleys.
  - e. Creeks may remain in open natural condition or excavated channels may be constructed provided they meet the criteria of the standard specifications for public works construction.
  - f. When a creek or excavated channel is to remain open or in its natural condition, it shall meet one (1) of the following requirements:
    1. The creek or drainage way shall be dedicated to the city. The city council may waive this dedication requirement only for replats, which were originally platted prior to the dedication requirement.
    2. Creeks or drainage ways may be owned and maintained by a city, approved maintenance entity. This entity shall maintain the property on an ongoing basis. The property shall revert to the city should the entity fail to satisfactorily maintain it. Adequate floodway easements shall be required.
    3. Where the city has designated a floodway or floodplain as a part of the city park system, the following shall be provided:
      - (i). Parallel streets fronting along the park
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- (ii). Cul-de-sacs, which provide public access fronting on the park.
      - (iii). Loop streets, which provide public access fronting on the park.
    - g. The developer must provide sufficient access on each side of creeks or drainage ways for maintenance purposes. The location and size of the access ways shall be determined by the city engineer and the director of public services. The minimum width of the access way shall be fifteen (15) feet. Permanent physical markers, the type and locations of which are to be determined by the city engineer, shall be placed along the boundaries of the access way and private property. This access way shall be included in the dedication requirements of f. , above.
    - h. Temporary erosion control methods will be used to abate sediment runoff from construction sites in conformance with NCTCOG's Storm Water Quality Best Management Practices for Construction Activities.
  - (2) *Nonresidential developments:*
    - a. An adequate storm drainage system shall be constructed, consisting of inlets, pipes, underground drainage structures, and/or excavated channels, or natural creeks. Excavated channels and natural creeks shall meet the requirements of (1) e., f., and g. above.
    - b. In general, underground drainage shall be constructed in streets and alleys. If approved by the city engineer, the developer may dedicate, at his own expense, a right-of-way of sufficient width to permit excavation and maintenance of an open pipe/open channel or pipe/open channel system of satisfactory depth and width. The developer shall excavate the channel at his own expense and shall construct a reinforced concrete pilot channel if deemed necessary by the city engineer. The developer shall sod or seed the channel to prevent erosion. A creek may remain open in its natural condition, provided the requirements of (1) e., f., and g. above shall apply. Location, type of construction and city participation in the cost of open channels shall be as approved by the city engineer.
    - c. Lakes, detention ponds, and retention ponds will be constructed in all areas provided they are approved by the city engineer, as prescribed by city ordinance. The city may assume maintenance responsibilities for this type of facility, if approved by the city council; however, easements shall be provided to ensure protection of these areas for maintenance purposes.
    - d. Other innovative drainage concepts will be considered if approved by the city engineer.
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- e. Grading plans shall be provided for nonresidential developments, if deemed necessary by the city engineer.
- (b) **Sanitary sewers.** Sanitary sewers shall be designed in accordance with the standard specifications of the Texas Natural Resource Conservation Commission (TNRCC) for public works construction. Sanitary sewer facilities shall be provided to adequately service the addition or subdivision and conform to the city's sewer master plans.
- (1) Sewer pipe shall have a minimum internal diameter of eight (8) inches. The sewer main shall be located in the center of the right-of-way or approximately six (6) feet from property line opposite the water main. Construction and materials shall conform to the standard specifications for public works construction of the city or as determined by grade as approved by the city engineer. Upper ends of mains five hundred (500) feet or less in length may be six-inch internal diameter.
  - (2) Sewer services for each lot shall be carried to the property line.
  - (3) Should the subdivision or addition abut and use a sewer main of the city, the developer shall pay the city a pro rata charge, as prescribed by the pro-rata ordinance of the city, for the use of the same.
  - (4) The developer shall construct all manholes, cleanouts, and other appurtenances as required on the plans.
  - (5) Should a lift station, either temporary or permanent, be necessary to provide a sanitary sewer service to the subdivision, the developer shall construct the station and all appurtenances, at his own expense. If and when the lift station is no longer needed, the installation will, unless other provisions are made, remain the property of the city for reuse or disposal.
  - (6) The developer shall provide for future land development of abutting properties by installing lines according to the master sanitary sewer plan of the city.
  - (7) For city participation in over sizing see section 18-167 of this Code of Ordinances.
  - (8) Upon completion of PVC sanitary sewer pipe installation the contractor shall pull a mandrel through the pipe to test for a maximum five (5) percent deflection. The mandrel shall be sized and constructed as listed on the applicable mandrel deflection table.
  - (9) In order to ascertain that the sanitary sewer piping shall perform to the function for which it was designed and constructed, all piping shall be visually inspected by photographic means. A videotape of the piping inspection shall be given to the city. Sanitary sewer piping will be inspected for grade changes and roundness of pipe.
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- (10) Sanitary sewer piping, that fails to pass mandrel testing or television testing shall be repaired or retested.
  - (11) The location of sewer services shall be shown by three-inch letters imprinted in the curb identifying the sewer service with an 'S' directly over the service.
- (c) **Water systems.** The water system shall be designed in accordance with the standard specifications for public works construction and the TNRCC regulations. Water systems shall have a sufficient number of outlets and shall be of sufficient size to furnish an adequate domestic water supply to furnish fire protection to all lots, and to conform to the city master water plan.
- (1) Water pipes shall be a minimum of six-inch nominal internal diameter. The water main shall be located in the street right-of-way approximately six (6) feet from property lines. Construction and material shall conform to the standard specifications for public works construction of the city.
  - (2) Water services for each lot, unit, or building space shall be stubbed out with an angle stop to the location required as shown on the plans. A meter box conforming to the requirements of the standard specifications for public works construction shall be installed over the end of each service.
  - (3) Valves and fire hydrants shall be located and painted to satisfy the requirements of the public works construction and fire department.
  - (4) Should the subdivision or addition abut and use a water main of the city, the developer shall pay to the city a pro rata charge, as prescribed by the pro rata ordinance of the city, for use of the same.
  - (5) Reflective fire hydrant spotters shall be installed in all streets at a point adjacent to fire hydrants. The spotters shall conform to the public service director specifications. At corner locations, spotters shall be installed in both streets.
  - (6) The developer shall provide for future land development of abutting properties by installing lines according to the master water plan of the city.
  - (7) For city participation in over sizing see section 18-167 of this Code of Ordinances.
  - (8) The location of water services shall be shown by three-inch letters imprinted on the curb identifying the water service with a 'W' directly over the service.
- (d) **Underground utilities.** All residential and multifamily subdivision plats and site plans filed with and submitted to the city council for approval shall:
- (1) Require all telephone and cable TV utility lines and all electric utility lateral and service lines and wires to be placed underground except as otherwise herein
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provided. In special or unique circumstances or to avoid undue hardships, the city council may authorize variances and exceptions from this requirement and permit the construction and maintenance of overhead electric utility lateral or service lines and of overhead telephone and cable TV lines and may require any plat or site plan with such approved variances or exceptions.

- (2) Where electrical service is to be placed underground, street or site lighting shall also be placed underground, except the street lighting standards.
- (3) All electrical, cable TV and telephone support equipment (transformers, amplifiers, switching devices, etc.) necessary for underground installations in subdivisions shall be pad mounted or placed underground.
- (4) That nothing herein set forth shall prohibit or restrict any utility company from recovering the difference between the cost of overhead facilities and underground facilities. Each utility whose facilities are subject to the provisions of this chapter shall develop policies and cost reimbursement procedures with respect to the installation and extension of underground service.
- (5) The electric utility company may plan and construct overhead feeders and/or lateral lines on perimeters of subdivisions or property without obtaining a variance or exception. Telephone and cable TV lines may be constructed overhead where overhead electric utility lines are permitted.
- (6) Anything in his chapter notwithstanding, temporary construction service may be provided by overhead utility lines and facilities without obtaining a variance or exception.

All installations regulated by the provisions set forth herein shall be in conformance with the intent of this chapter and shall conform to any regulations and/or specifications that the various public utility companies may have in force from time to time.

(e) ***Other facilities.***

- (1) The developer shall furnish all easements and right-of-way necessary for construction of electrical, gas, cable, and telephone service to the subdivision.
  - (2) The developer shall pay for the number of streetlights required in the subdivision as determined by the city. The distance between streetlights shall be approximately five hundred (500) feet. Streetlights shall be so placed to provide illuminated lighting at all street intersections meeting the approval of the city engineer, director of public services and the fire chief. All streetlights fixtures and poles shall be approved by Texas Utilities. After acceptance of the development, service charges for electricity will be paid by the city.
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- (3) The utility contractor shall be responsible for all damage to improvements caused during installation of utilities.
- (f) **Sidewalks.** Sidewalks shall be constructed for all lots adjoining dedicated streets except within areas zoned for industrial purposes. The City Council, however, may require sidewalks in areas zoned for industrial purposes should they determine that sidewalks are necessary for safe pedestrian movement. Sidewalks shall be constructed along major thoroughfares, where lots do not adjoin the street, across power line easements and in other areas where pedestrian walkways are necessary. All sidewalks shall be constructed with the other improvements to the subdivision except for sidewalks adjacent to single family and duplex lots, which may be delayed until development of lots. However, where sidewalks within these residential areas would extend across land not adjacent to single family or duplex lots, or across bridges or culverts, the sidewalk shall be constructed with the other improvements to the subdivision. The director of public services may, where the roadway is not constructed to current standard specifications, require monies to construct sidewalks be escrowed with the city in lieu of its construction. Sidewalks adjacent to screening walls shall generally be placed against the screening walls to the subdivision and shall be a minimum of five (5) feet. Routing to clear poles, trees or other obstacles shall be subject to approval by the director of public services. Concrete sidewalks shall be provided on both sides of the street as approved by the city and shall be of the width, location, and construction as hereafter provided, to wit:
- 1) a minimum width of four (4) feet, except where a sidewalk is to be located adjacent to the curb, or less than two (2) feet from the back of the curb or pavement, the sidewalk shall not be less than five (5) feet in width.
  - 2) a minimum depth of four (4) inches,
  - 3) a minimum strength of two thousand five hundred (2,500) psi reinforced with #3 rebar on twenty-four (24") inch centers both ways, and be constructed on a six (6") inch base of backfill compacted to ninety-five (95%) percent standard proctor.

(Ord. No.2000-30, 6-13-2000)

(g) **Screening and entryways.**

- (1) **Screening.** Where subdivisions are platted so that the rear yards of residential lots are adjacent to a dedicated roadway by an alley or service road, the developer shall provide screening walls at his sole expense. All forms of screening shall conform to the requirements of the ordinances of the city governing the sight distance for traffic safety and other city ordinances. Screening to be provided shall be as follows unless otherwise specifically approved by the city council: A structural concrete wall, a minimum of six (6) feet in height, shall be located in the street right-of-way adjacent, to the right-of-way line. The color of the wall shall be limited to earth-tone colors, excluding gray, green and white. The color of the wall shall be uniform on each side of a thoroughfare for the entire length of the thoroughfare, unless
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otherwise approved by the city. When walls are built in sections, the colors of each section shall be as closely similar as possible, but shall in no case be incompatible. Finish of the wall shall be consistent on all surfaces. Plans and specifications for the wall shall be approved by the city. The developer may, at his option, install planter beds, minimum size four hundred (400) square feet per bed (unless a smaller size is approved by the director of parks and recreation), adjacent to the wall. In such event, the developer shall provide total maintenance for the beds for a minimum of two (2) years. The developer shall install automatic irrigation bubblers or other means of irrigation approved by the parks and recreation department. Plant material shall be either crepe myrtle, Boston ivy, or Virginia creeper, or other plants approved by the director of parks and recreation. The developer shall pay a sum of four dollars (\$4.00) per square foot of planter bed for a landscaping maintenance fund to be paid prior to the time the subdivision is accepted by the city. If no alley is constructed adjacent to the wall, a five-foot wide wall maintenance easement shall be platted adjacent to the wall on residential lots. If no alley is constructed, all utility lines shall be placed in the street right-of-way.

- (2) *Entryways.* Residential lots may be utilized for landscaped entryways. Entryways may utilize walls and landscaping anywhere on the lot except within the required visibility easement at the intersection of two (2) streets. The requirement for construction of sidewalks shall continue in effect. The required screening at the rear of the lot, as required by subparagraph (g)(1) of this section, may be waived in lieu of the landscaped entryway. If the landscaped entryway is removed, such required screening shall be placed on the lot. All landscaped entryways shall be maintained by the developer, property owner, or a viable homeowner's association. Any association, which shall maintain a landscaped entryway, may, at the discretion of the city, be required to maintain a substantial amount of additional open space, recreation facilities, or other common-use land or facilities.

*(Ord. No. 86-846, II (XXI), 3-25-86; Ord. No. 94-194, §§ 17-23. 9-27-94)*

#### **Sec. 20-23. Other requirements.**

- (a) All lot corners shall be located and marked with a three-eighths-inch minimum reinforcing bar, twelve (12) inches minimum in length, and shall be placed flush with the ground or counter sunk, if necessary, in order to avoid being disturbed.
- (b) Iron rods, one (1) inch in diameter and twelve (12) inches minimum length shall be placed on all boundary corners, block corners, curve points, and angle points of public right-of-way.
- (c) All developments shall provide for fire protection, as approved by the fire chief, prior to the issuance of any building permits issued by the code enforcement department.
- (d) Within the corporate limits of the city, street signs will be installed by the city at each intersection and the subdivider shall pay to the city for the installation of street and traffic signs throughout the subdivision. Such price shall include the cost of sign poles, placards
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assembly and installation. In subdivisions lying beyond the corporate limits of the city, street name signs shall be placed by the subdivider at all intersections within or abutting the subdivisions. Such signs shall be a type approved by the city and shall be installed in accordance with the standards of the city. The developer shall pay such sum as computed by the director of public services for street signs as set out herein at the time at which the developer submits for final acceptance of the subdivision for approval, and this sum shall be in addition to the filing fee set forth hereinabove.

- (e) Site, street or development grading shall not commence unless authorized by the city.  
(*Ord. No. 86-846, § II (XXIII), 3-25-86*)

### **Sec. 20-24. Enforcement.**

Any subdivision of land being developed in violation of the terms and provisions of the regulations set out in this chapter is hereby declared to be a public nuisance and the appropriate officer of the city are hereby authorized to institute any action which may be necessary to restrain or abate such violation.

(*Ord. No. 86-846, § II (XXIII), 3-25-86*)

### **Sec. 20-25. Variances.**

The city council may authorize a variance from these regulations when in its opinion undue hardship will result from requiring strict compliance. In granting variances, the city council shall prescribe only conditions that it deems necessary or desirable to the public interest and making the findings herein below required. The city council shall take into account the nature of the proposed use of land involved and existing uses of the land in the vicinity, the number of the proposed uses of land involved and existing uses of the land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variances upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. No variance will be granted unless the city council finds:

- (1) That there are special circumstances or condition affecting the land involved such that the strict application of the provisions of this chapter would result in unnecessary hardship to the applicant.
  - (2) That the variances are necessary for the preservation and enjoyment of a substantial property right of the applicant, that the granting of the variance will not be detrimental to the public health safety or welfare or injurious to other property in the area.
  - (3) That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this chapter. Such finding of the city council together with the specific facts on which such findings are based shall be incorporated under the official minutes of the city council meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be
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secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.

(4) The city council may not authorize a variance that would constitute a violation of any other valid ordinance of the city.

(5) The procedures and standards of this section 20-25 do not apply to an appeal to the City Council granted pursuant to Section 20-28 of these Subdivision Regulations or to any relief granted there under.

*(Ord. No. 86-846, § II (XXIV), 3-25-86)*

*(Ord. No. 05-249 §8 08/30/05)*

### **Sec. 20-26. Conflicts.**

All ordinances or parts of ordinances, with the exception of the building code and comprehensive zoning ordinance of the city, which are inconsistent or in conflict with any of the provisions of this chapter are hereby repealed. Where the building code or zoning ordinance of the city contains regulations, which are more restrictive than the regulations contained in this chapter, the ordinance, which is more restrictive, shall control.

*(Ord. No. 86-846, § II (XXV), 3-25-86)*

### **Sec. 20-27. Exceptions.**

Plats of subdivisions which received preliminary approval by the city council prior to April 22, 1986, shall be excepted from the requirements of this chapter; provided that, one (1) or more sections of the final plat of such subdivision was approved and filed for record within one (1) year from March 25, 1986.

*(Ord. No. 86-846, § II (XXVI)(1), 3-25-86)*

### **Section 20-28. Proportionality Appeal**

(a) *Definitions.* For purposes of this section:

(1) **Public infrastructure improvement** means a water, wastewater, roadway, drainage or park facility that is a part of one or more of the City's public facilities systems development.

(2) **Public facilities system** means the collection of water, wastewater, roadway, drainage or park facilities owned or operated by or in behalf of the City for the purpose of providing services to the public, including existing and new developments..

(b) *Purpose, Applicability & Effect*

(1) *Purpose.* The purpose of a proportionality appeal is to assure that a requirement to dedicate, construct or pay a fee for a public infrastructure improvement imposed on a proposed plat as a condition of approval does not result in a disproportionate cost

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burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed development on the City's public facilities systems.

- (2) *Applicability.* An appeal under this section may be filed by a property owner to contest any requirement to dedicate land, to construct improvements or to pay development fees, other than impact fees, for a public infrastructure improvement, which requirement is imposed under the City's Subdivision Regulations to a plat application pursuant to this Chapter 20, whether the requirement is applicable under uniform standards, or is imposed pursuant to an individual evaluation of the proposed subdivision.
- (c) *Proportionality determination by City Engineer.* Prior to a decision by the Planning and Zoning Commission on a master plat application or a preliminary plat application, or if no preliminary plat application is required, on a final plat application, filed under this Chapter 20, the City Engineer shall prepare a report affirming that each public infrastructure improvement to be imposed as a condition of plat approval is roughly proportionate to the demand created by the development on the City's public facilities systems, taking into consideration the nature and extent of the development proposed.
- (1) In making his proportionality determination, the City Engineer may rely upon categorical findings pertaining to on-site improvements; the proposed or potential use of the land; the timing and sequence of development in relation to availability of adequate levels of public facilities; impact fee studies or other studies that measure the demand for services created by the development and the impact on the City's public facilities systems; the function of the public infrastructure improvements in serving the proposed development; the degree to which public infrastructure improvements to serve the subdivision are supplied by other developments; the anticipated participation by the City in the costs of such improvements; any reimbursements for the costs of public infrastructure improvements for which the proposed development is eligible; or any other information relating to the mitigating effects of the public infrastructure improvements on the impacts created by the development on the City's public facilities systems.
  - (2) Based upon his proportionality determination, the City Engineer shall affirm that the public infrastructure improvement requirements of the Subdivision Regulations do not impose costs on the developer for such improvements that exceed those roughly proportionate to those incurred by the City in providing public facilities to serve the development.
  - (3) The City Engineer may promulgate any application requirements that may assist in making the proportionality determination required by this subsection.
- (d) *Commission Determination.* The City Planning and Zoning Commission shall take into account the City's Engineer's report concerning the proportionality of public infrastructure improvement requirements to be applied to a proposed master, preliminary or final plat
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application, as the case may be, in making its decision on the plat application, and shall identify any variation to the requirements that are to be included as conditions to plat approval.

(e) *Appeals.*

- (1) *Who May Appeal.* An appeal to the City Council under this section may be filed by a property owner or the applicant for a master, preliminary or final plat, in which a requirement to dedicate land for, construct or pay a fee, other than an impact fee, for a public infrastructure improvement has been applied or attached as a condition of approval, or as grounds for denying the plat application.
  - (2) *Time for Filing and Request for Extension of Time.* The appeal shall be filed in writing within ten (10) days of the date the Planning and Zoning Commission takes action applying the public infrastructure improvement requirement to the plat application. The appeal shall be filed with the City Secretary and shall be forwarded to the City Council for consideration in conjunction with its deliberations on the plat application. The applicant may request postponement of consideration of the plat application by the City Council pending preparation of the study required by subsection (4), in which case the applicant shall also waive the statutory period for deciding plats for the time needed to decide the appeal by the City Council.
  - (3) *Form of Appeal.* An appeal under this section shall allege that application of the standard or the imposition of conditions relating to the dedication, construction or fee requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's public facilities systems, or does not reasonably benefit the proposed development.
  - (4) *Study Required.* The appellant shall provide a study in support of the appeal that includes the following information within 30 days of the date of appeal, unless a longer time is requested:
    - (A) Total capacity of the City's water, wastewater, roadway, drainage or park system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed.
    - (B) Total capacity to be supplied to the City's water, wastewater, roadway, drainage or park facilities system by the dedication of an interest in land, construction of improvements or fee contribution. If the plat application is proposed as a phased development, the information shall include any capacity supplied by prior dedication, construction or fee payments.
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- (C) Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land, construction of improvements, or fee payment. In making this comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered.
  - (D) The amount of any City participation in the costs of oversizing the public infrastructure improvement to be constructed in accordance with the City's requirements.
  - (E) Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication, construction or fee requirement imposed by the City.
- (f) *Land in Extraterritorial Jurisdiction.* Where the subdivision or the public infrastructure improvements are located in the extraterritorial jurisdiction of the City and are to be dedicated to a county under an interlocal agreement under Tex. Loc. Gov't Code ch. 242, an appeal or study in support of the appeal shall not be accepted as complete for filing by the planning and zoning administrator unless the appeal or study is accompanied by verification that a copy has been delivered to the county in which the facilities are to be located.
- (g) *Processing Application.*
- (1) *Responsible Official.* The City Engineer is the responsible official for evaluation and processing of an appeal under this section. Where the appeal is for relief from dedication of rights-of-way for or construction of a facility in the City's extraterritorial jurisdiction that is to be dedicated to a county under an interlocal agreement under Texas Local Government Code, Chapter 242, the City Engineer shall coordinate a recommendation with the county responsible for reviewing plats in the county.
  - (2) *Evaluation, Recommendation.* The City Engineer shall evaluate the appeal and supporting study and shall make a recommendation to the City Council based upon the information contained in the study, any comments received from the county, and the City Engineer's analysis based upon the same factors considered in making his original proportionality determination.
- (g) *Decision.* The City Council shall decide the appeal in conjunction with its decision on the plat application. The Council shall base its decision on the criteria listed in subsection (h), and may take one of the following actions.
- (1) Deny the appeal, and impose the standard or condition on the plat application in accordance with the City Engineer's recommendation or the Planning and Zoning Commission's decision on the plat; or
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- (2) Deny the appeal, upon finding that the proposed dedication, construction or fee requirements are inadequate to offset the impacts of the subdivision on the public facilities system for water, wastewater, roadway, drainage or park improvements, and either deny the plat application or require that additional public infrastructure improvements be made as a condition of approval of the application; or
  - (3) Grant the appeal, and waive in whole or in part any dedication, construction or fee requirement for public infrastructure improvements to the extent necessary to achieve proportionality; or
  - (4) Grant the appeal, and direct that the City participate in the costs of acquiring land for or constructing the public infrastructure improvement under standard participation policies.
- (h) *Criteria for Approval.* In deciding an appeal under this section, the City Council shall determine whether the application of the standard or condition requiring dedication of an interest in land for, construction of, or payment of a fee for public infrastructure improvements is roughly proportional to the nature and extent of the impacts created by the proposed subdivision on the City's public facilities systems for water, wastewater, roadway, drainage or park facilities, and reasonably benefits the development. In making such determination, the Council shall consider the evidence submitted by the appellant, the City Engineer's report and recommendation, considering in particular the factors identified in subsection (c), and, where the property is located within the City's extraterritorial jurisdiction, any recommendations from the county.
- (i) *Action Following Decision.* If the relief requested under the proportionality appeal is granted in whole or in part by the City Council, the dedication, construction or fee requirement initially imposed by the Planning and Zoning Commission as a condition of plat approval shall be modified accordingly, and the standards applied or the conditions attached to Commission's approval of the plat application shall be conformed to the relief granted. Thereafter, the appellant shall resubmit the plat application to the City Council within ninety (90) days of the date relief under the appeal is granted, in whole or in part, showing conformity with the City Council's decision on the appeal.
- (j) *Expiration of Relief.* If an applicant for plat approval prevails on a proportionality appeal, but fails to conform the plat to the relief granted by the City Council with the ninety-day period provided, the relief granted by the City Council on the appeal shall expire.
- (1) The Council may extend the time for filing the revised plat application for good cause shown, but in any event, the expiration date for the relief granted shall not be extended beyond one year from the date relief was granted on the appeal.
  - (2) If the plat application is modified to increase the number of residential units or the intensity of non-residential uses, the responsible official may require a new study to validate the relief granted by the City Council.
  - (3) If the plat application for which relief was granted is denied on other grounds, a new petition for relief shall be required on any subsequent application.
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(Ord. No. 05-249 §9 08/30/05)

### **Section 20-29. Adequate Public Facilities Requirements**

- (a) *Policy.* Land proposed for subdivision or development in the City and in the City's extraterritorial jurisdiction must be served adequately by essential public facilities and services, including water facilities, wastewater facilities, roadway and pedestrian facilities, drainage facilities and park facilities. Land shall not be approved for platting or development unless and until adequate public facilities necessary to serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being developed or offsite.
- (1) New development must be supported by adequate levels of public facilities and services.
  - (2) It is necessary and desirable to provide for dedication of rights-of-way and easements for capital improvements to support new development at the earliest stage of the development process.
  - (3) Requirements for dedication and construction of public infrastructure improvements to serve a proposed new development should be attached as conditions of approval of any development application that contains a specific layout of the development.
  - (4) There is an essential nexus between the demand on public facilities systems created by a new development and the requirement to dedicate rights-of-way and easements and to construct capital improvements to offset such impacts.
  - (5) The City desires to assure both that development impacts are mitigated through contributions of rights-of-way, easements and construction of capital improvements, and that a development project contributes not more than its proportionate share of such costs.
- (b) *Conformance to Plans.* Proposed capital improvements serving new development shall conform to and be properly related to the City's master plans for public facilities and services, and applicable capital improvements plans, and shall meet the service levels specified in such plans.
- (c) *Adequacy of Specific Facilities.*
- (1) *Water.* All lots, tracts or parcels on which development is proposed shall be connected to a public water system which has capacity to provide water for
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domestic use and emergency purposes, including adequate fire protection. Additional standards and requirements are defined in section 20-22.

- (2) *Wastewater.* All lots, tracts or parcels on which development is proposed shall be served by an approved means of wastewater collection and treatment. The City Engineer shall be responsible for determining the approved means of wastewater collection and treatment. The City may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity. Additional standards and requirements are defined in section 20-22.
  - (3) *Roads.* Proposed roads serving new development shall provide a safe, convenient and functional system for vehicular, bicycle and pedestrian circulation and shall be properly related to the applicable master thoroughfare plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. New developments shall be supported by a thoroughfare network having adequate capacity, and safe and efficient traffic circulation. Each development shall have adequate access to the thoroughfare network. Additional standards and requirements are defined in section 20-20.
  - (4) *Drainage.* Drainage improvements serving new development shall accommodate potential runoff from the entire upstream drainage area under developed conditions and shall be designed to prevent overloading the capacity of the downstream drainage system. The City may require the phasing of development, the use of control methods such as retention or detention, the construction of off-site drainage improvements, or drainage impact fees in order to mitigate the impacts of the proposed development. Additional standards and requirements are defined in Section 20-22.
- (d) *City Options.* In order to maintain prescribed levels of public facilities and services for the health, safety and general welfare of its citizens, the City may require the dedication of easements and rights-of-way for or construction of on-site or off-site public infrastructure improvements for water, wastewater, road, drainage or park facilities to serve a proposed development, or require the payment of fees in lieu thereof. If adequate levels of public facilities and services cannot be provided concurrent with the schedule of development proposed, the City may deny the development until the public facilities and services can be provided, or require that the development be phased so that the delivery of facilities and services coincides with the demands for the facilities created by the development. The City may impose any conditions relating the provision of public infrastructure specified by an ordinance establishing or amending the zoning for the property.
- (e) *Property Owner's Obligation*
- (1) *Dedication and Construction of Improvements.* The property owner shall dedicate all rights-of-way and easements for, and shall construct, capital improvements within the rights-of-way or easements for those water, wastewater, road or drainage improvements needed to adequately serve a proposed development consistent with
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the applicable master facilities plans, whether the facilities are located on, adjacent to or outside the boundaries of the property being developed.

- (2) *Adjacent Road Improvements.* In the case of adjacent or abutting roads, the City may require that the entire right-of-way be dedicated and improved to City design standards, depending on factors such as the impact of the development on the road, the timing of development in relation to need for the road, and the likelihood that adjoining property will develop in a timely manner. In the case of frontage or service roads for state and federally designated highways, the entire abutting right-of-way shall be dedicated and improved to applicable design standards.
  - (3) *Substandard Road Improvements.* Notwithstanding any other provision of these subdivision regulations, where an existing road that does not meet the City's right-of-way or design standards abuts a proposed development, the City may require the property owner to dedicate the right-of-way for a standard width, and to improve the street according to the dimensions and specifications in the applicable thoroughfare plan, depending on factors such as the impact of the development on the thoroughfare, the timing of development in relation to the need for the thoroughfare, and the likelihood that adjoining property will develop in a timely manner.
  - (4) *Facilities Impact Studies.* The City may require that a property owner prepare a comprehensive traffic impact study, drainage study or other public facilities study in order to assist the City in determining whether a proposed development will be supported with adequate levels of public facilities and services concurrent with the demand for the facilities created by the development. The study shall identify at a minimum the adequacy of existing facilities and the nature and extent of any deficiencies, and the capital improvements needed to meet the adopted level of service assuming development at the intensity proposed in the development application. The study shall be subject to approval by the City Engineer. The City also may require, at the time of approval of a subordinate development application, an update of a public facilities study approved in connection with a priority development application.
- (f) *Timing of Dedication and Construction.*
- (1) *Initial Provision for Dedication or Construction.* The City shall require an initial demonstration that a proposed development shall be adequately served by public facilities and services at the time for approval of the first development application that portrays a specific plan of development, including but not limited to a petition for establishing a planned development zoning district, or other overlay zoning district; a petition for an annexation agreement or a development agreement; an application for a subdivision master plat, or an application for a preliminary or final subdivision plat. As a condition of approval of the development application, the City may require provision for dedication of rights-of-way or easements for, and construction of, capital improvements to serve the proposed development.
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- (2) *Deferral of Obligation.* The obligation to dedicate rights-of-way for or to construct one or more capital improvements to serve a new development may be deferred until approval of a subsequent phase of the subdivision, at the sole discretion of the City Engineer, upon written request of the property owner, or at the City's own initiative. As a condition of deferring the obligation, the City may require that the developer enter into a capital improvements agreement, specifying the time for dedication of rights-of-way for or construction of capital improvements serving the development.

(Ord. No. 05-249 §10 08/30/05)

### **Section 20-30. Vested Rights Determination**

(a) *Vested Rights Petition*

- (1) *Purpose.* The purpose of a vested rights petition is to determine whether one or more standards of these Subdivision Regulations should not be applied to a preliminary or final plat application by operation of state law, or whether certain plats are subject to expiration.
- (2) *Applicability.* A vested rights petition may be filed with an application for a master plat, preliminary plat or final plat application.
- (3) *Effect.* Upon granting of a vested rights petition in whole or in part, the plat application shall be decided in accordance with the standards specified in the relief order based on prior subdivision requirements or development standards, or the approved plat otherwise subject to expiration shall be extended.

(b) *Petition Requirements.*

- (1) *Who May Petition.* A vested rights petition may be filed by a property owner or the owner's authorized agents, including the applicant, with a master, preliminary or final plat application.
- (2) *Form of Petition.* The vested rights petition shall allege that the petitioner has a vested right for some or all of the land subject to the plat application under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Section 43.002 or successor statute, that requires the City to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:
- (A) A narrative description of the grounds for the petition;
- (B) A copy of each approved or pending development application which is the basis for the contention that the City may not apply current standards to the plat application which is the subject of the petition;
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- (C) The date of submittal of the plat application, or of a development plan pursuant to which the plat was subsequently filed, if different from the official filing date established under Section 20-6..
  - (D) The date the project for which the application for the plat was submitted was commenced.
  - (E) Identification of all standards otherwise applicable to the plat application from which relief is sought;
  - (F) Identification of the standards which the petitioner contends apply to the plat application;
  - (G) Identification of any current standards which petitioner agrees can be applied to the plat application at issue;
  - (H) A copy of any prior vested rights determination by the City involving the same land; and
- (3) *Time for Filing Petition.* A vested rights petition shall be filed with a plat application for which a vested right is claimed.
- (c) *Processing of Petition and Decision*
- (1) *Responsible Official.* The planning director shall process the vested rights petition. A copy of the petition shall be forwarded to the City Attorney following acceptance.
  - (2) *Decision by Commission on Petition* The Commission shall render a decision on the vested rights petition in conjunction with its decision on the plat application, based upon the report and recommendation of the administrator.
  - (3) *Appeal of Decision on Petition.* The petitioner or any interested person may appeal the Commission's decision on the vested rights petition within ten (10) working days of the date of such decision to the City Council.
  - (4) *Decision by City Council.* The City Council on appeal shall decide the vested rights petition, after considering the director's report and the decision by the Planning and Zoning Commission, with its decision on the plat application
- (d) *Action and Order on Petition*
- (1) *Action on the Petition.* The decision-maker on the vested rights petition may take any of the following actions:
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- (A) Deny the relief requested in the petition, and direct that the plat application shall be reviewed and decided under currently applicable standards;
  - (B) Grant the relief requested in the petition, and direct that the plat application shall be reviewed and decided in accordance with the standards contained in identified prior subdivision regulations; or
  - (C) Grant the relief requested in part, and direct that certain identified current standards shall be applied to the plat application, while standards contained in identified prior subdivision regulations also shall be applied.
- (2) *Order on Petition.* The administrator's report and each decision on the vested rights petition shall be memorialized in an order identifying the following:
- (A) The nature of the relief granted, if any;
  - (B) The approved or filed plat application(s) or other development application(s) upon which relief is premised under the petition;
  - (C) Current standards which shall apply to the plat application for which relief is sought;
  - (D) Prior standards which shall apply to the plat application for which relief is sought, including any procedural standards;
  - (E) The statutory exception or other grounds upon which relief is denied in whole or in part on the petition;
- (e) *Criteria for Approval* The decision-maker shall decide the vested rights petition based upon the following factors:
- (1) The nature and extent of prior plat or other development applications filed or approved for the land subject to the petition;
  - (2) Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
  - (3) Whether any prior approved applications for the property have expired or have been terminated in accordance with law;
  - (4) Whether any statutory exception applies to the standards in the current Subdivision Regulations from which the applicant seeks relief;
  - (5) Whether any prior approved plat or other development applications relied upon by the petitioner have expired;
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(f) Application Following Relief Order Following the City's final decision on the vested rights petition, the property owner shall conform the plat application for which relief is sought to such decision. If the plat application on file is consistent with the relief granted on the vested rights petition, no revisions are necessary. Where proceedings have been stayed on the plat application pending referral of the vested rights petition to the City Council, proceedings on the application shall resume after the Council's decision on the vested rights petition.

(g) Expiration. Relief granted on a vested rights petition shall expire on occurrence of one of the following events:

- (1) The petitioner or property owner fails to submit a required revised plat application consistent with the relief granted within thirty (30) days of the final decision on the petition;
- (2) The plat application for which relief was granted on the vested rights petition is denied under the criteria made applicable through the relief granted on the petition; or
- (3) The plat application for which relief was granted on the vested rights petition expires.

(Ord. No. 05-249 §11 08/30/05)

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## ARTICLE II. PARK LAND DEDICATION

*(Revised per Ord. No. 2000-17, 2-22-00)*

### **Sec. 20-41. Purpose**

- (a) This ordinance is adopted to provide recreational areas and amenities in the form of neighborhood parks as a function of subdivision development in the City of Cedar Hill. This ordinance is enacted in accordance with the Home Rule powers of the City of Cedar Hill, granted under the Texas Constitution and statutes of the State of Texas, including, without limitation, TEX. LOC. GOV'T. CODE § 51.071 *et seq.* and § 212.001 *et seq.* It is hereby declared that by the City Council of the City of Cedar Hill that recreational areas, in the form of neighborhood parks and related amenities and improvements, are necessary and in the public welfare, and that the only adequate procedure to provide for same is by integrating such a requirement into the procedure for planning and developing property of a residential subdivision in the City of Cedar Hill, whether such development consists of new construction on previously vacant land or rebuilding and redeveloping existing residential areas.
- (b) Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities and within convenient distances from a majority of the residences to be served thereby, the standards for which are set forth in the Cedar Hill Parks, Recreation and Open Space Master Plan, or neighborhood areas. The park zones established by the Cedar Hill Parks and Recreation Department and shown on the official Cedar Hill Parks, Recreation and Open Space Master Plan, or neighborhood areas, shall be *prima facie* evidence that any park located therein is within such a convenient distance from the majority of residences to be served thereby. The cost of the neighborhood parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities. Therefore, the following requirements are adopted to effect such purposes.

*(Ord. No. 2000-17, § 2, 2-22-00)*

### **Sec. 20-42. General Requirement: Dedication of Land and Payment of Park Development Fee**

- (a) Prior to a plat being filed with the County Clerk of Dallas County, Texas, or with the County Clerk of Ellis County, Texas, for a development of a residential area within the City of Cedar Hill and in accordance with the planning and zoning ordinances of the City of Cedar Hill, such plat shall contain a clear fee simple dedication of one acre of land for each 50 proposed dwelling units. As used in this article, a "dwelling unit" means each individual residence, including individual residences in a multi-family structure, designed and/or intended for inhabitation by a single family.

Any proposed plat submitted to the City of Cedar Hill for approval shall show the area

proposed to be dedicated under this section. The required land dedication of this section may be met by a payment in lieu of land where permitted by the City of Cedar Hill or required by other provisions in this article.

In the event a plat is not required, the dedication of land required under this section shall be met prior to the issuance of a building permit. *(Ord. No. 2019-694, 09-24-19)*

- (b) The City Council of the City of Cedar Hill declares that development of an area less than five acres for neighborhood park purposes is impractical. Therefore, if fewer than two hundred fifty (250) dwelling units are proposed by a plat filed for approval, the city council may require the developer to pay the applicable cash in lieu of land amount, as provided in section 20-43 hereto. *(Ord. No. 2019-694, 09-24-19)*
- (c) In addition to the required dedication of land, as set forth above, there shall also be a park development fee paid to the City of Cedar Hill as a condition to subdivision plat approval or issuance of a building permit. Such park development fee shall be set from time to time by ordinance of the City Council of the City of Cedar Hill sufficient to provide for the development of amenities and improvements on the dedicated land to meet the standards for a neighborhood park to serve the area in which the subdivision is located. Unless and until changed by resolution of the City Council of the City of Cedar Hill, the park development fee shall be calculated on the basis of seven hundred dollars (\$700.00) per dwelling unit. *(Ord. No. 2019-694, 09-24-19)*
- (d) In lieu of payment of the required park development fee, a developer shall have the option to construct the neighborhood park amenities and improvements. All plans and specifications for the construction of such amenities and improvements must be reviewed and approved by the City of Cedar Hill. The developer shall financially guarantee the construction of the amenities and improvements, and the City of Cedar Hill must approve same, prior to the filing of a plat in the case of platted subdivisions. Once the amenities and improvements are constructed, and after the City of Cedar Hill has accepted such amenities and improvements, the developer shall deed and convey such amenities and improvements to the City of Cedar Hill.
- (e) In instances where land is required to be dedicated, the City of Cedar Hill shall have the right to accept or reject the dedication after consideration of the recommendation of the Parks and Recreation Board or the Planning and Zoning Commission, and to require a cash payment in lieu of land in the amount provided under Section 20-43 hereto, if the City of Cedar Hill determines that sufficient park area is already in the public domain for the area of the proposed development, or if the recreation potential for that area would be better served by expanding or improving existing neighborhood parks.
- (f) When two or more developments will be necessary to create a neighborhood park of sufficient size in the same area, the Parks and Recreation Board, at the time of preliminary plat approval, will work with the developers to define the optimum location of the required

dedication within the respective plats. Once a park site has been determined, adjacent property owners who develop around the park site shall dedicate land and cash to the existing site unless otherwise determined by the City Council. *(Ord. No. 2000-17, § 3, 2-22-00)*

#### **Sec. 20-43. Cash In Lieu of Land**

- (a) A developer responsible for land dedication under this article shall be required, at the city council's option, to meet the dedication requirements in whole or in part by a cash payment in lieu of land, in the amount set forth below. Such payment in lieu of land shall be made prior to filing the final plat for record, or prior to the issuance of a building permit where a plat is not required.

The cash payment in lieu of land dedication shall be met by the payment of a fee set from time to time by ordinance of the city council sufficient to acquire neighborhood park land. Unless and until changed by the city council, such fee shall be computed on the basis of five hundred dollars (\$500.00) per dwelling unit.

A cash payment in lieu of land dedication, as set forth in this section, does not relieve the developer of its obligation to pay the park development fee set forth in section 20-42(c) above. The cash payment in lieu of land dedication is in addition to the required park development fee. *(Ord. No. 2019-694, 09-24-19)*

- (b) The City of Cedar Hill may from time to time decide to purchase land for parks in or near the area of actual or potential development. If the City does purchase park land in a park zone, subsequent park land dedications for that zone shall be in cash only, the calculation of which is set forth in Section 20-43(a) above. Such cash payment is in addition to the payment of the required park development fee. *(Ord. No. 2000-17, § 4, 2-22-00)*

#### **Sec. 20-44. Special Fund, Right to Refund**

- (a) All funds collected by this dedication process will be deposited in the City of Cedar Hill's Park Development Fund and used solely for the purchase or leasing of park land and the development of same. All expenditures from the said Fund will be reviewed and approved by the City Council.
- (b) The City of Cedar Hill shall account for all sums paid into the Park Development Fund with reference to the individual plats involved. Any monies paid into the said Fund must be expended by the City of Cedar Hill within ten (10) years from the date received by the City. Such funds shall be considered to be spent on a first in, first out basis in a particular park zone. If not so expended within the ten (10) year period, the owners of the property will, on the last day of such period, be entitled to a refund of the remaining fees. The current owners of the property within the subdivision must request such a refund within one (1) year of entitlement, in writing, or such right is waived.

*(Ord. No. 2000-17, § 5, 2-22-00)*

**Sec. 20-45. Prior Dedication, Absence of Prior Dedication**

- (a) If a dedication requirement arose prior to the passage of this ordinance, that dedication requirement shall be controlled by the ordinance in effect at the time such obligation arose, except that additional dedication shall be required if the actual number of dwellings units constructed upon property is greater than the former assumed or planned number of dwelling units. Additional dedication shall be required only for the increase in the number of dwelling units and shall be based upon the land dedication and park development fee requirements set forth hereinabove.
- (b) At the discretion of the City, any former gift of land to the City may be credited on a per acre basis toward eventual land dedication requirements imposed on the donor of such lands. The City Council shall consider the recommendations of the Parks and Recreation Board and the Planning and Zoning Commission in exercising its discretion under this subsection.

*(Ord. No. 2000-17, § 6, 2-22-00)*

**Sec. 20-46. Additional Requirements, Definitions**

- (a) Any land dedicated to the City under this ordinance must be suitable for park and recreation uses. The following characteristics of a proposed area are generally unsuitable:
  - (1) Any area primarily located in the 100 year flood plain.
  - (2) Any areas of unusual topography or slope which renders same unusable for organized recreational activities.

The above characteristics of a park land dedication area may be grounds for refusal of any plat.

- (b) Drainage areas may be accepted as part of a park if the channel is constructed in accordance with City engineering standards, if no significant area of the park is cut off from access by such channel, if not less than five (5) acres of the site is above the 100 year flood plain, or if the dedication is in excess of ten (10) acres, not less than fifty percent (50%) of the site should be included in the 100 year flood plain.
- (c) Each park must have ready access to a public street.
- (d) Unless provided otherwise herein, an action by the City shall be by the City Council, after consideration of the recommendations of the Parks and Recreation Board and the Planning and Zoning Commission. Any proposal considered by the Planning and Zoning Commission under this section shall have been reviewed by the Parks and Recreation Board and its recommendation given to the said Commission.

- (e) Any preliminary plat approved prior to the effective date of this ordinance shall be exempt from these requirements set forth herein; however, when such preliminary approval expires, any resubmission of such plat shall meet the requirements of this ordinance.

*(Ord. No. 2000-17, § 7, 2-22-00)*

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## ARTICLE III ESCARPMENT DEVELOPMENT REGULATIONS

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**Sec. 20-66. Purpose.**

The purpose of the escarpment development regulations shall be to promote the following objectives:

- (1) To maintain the equilibrium of steep slope areas to control problems of erosion, slipping, and other earth movement.
- (2) To minimize the increased runoff that accompanies the development of slopes, especially during the construction phase when large tracts of land are disturbed.
- (3) To minimize the long-term effects of slope development including downstream flooding and the silting of area streams and lakes.
- (4) To minimize soil erosion by limiting activities that unnaturally expose the sub soils such as cuts, stripping off topsoil, and major regrading.
- (5) To reduce the hazards associated with slope development including flash flooding, landslides, mudslides, and rock falls.
- (6) To minimize the scarring effects of grading and to protect and retain the natural character of the escarpment.
- (7) To provide a factor of safety against unstable slopes or slopes subject to erosion and deterioration in order to protect human lives and property.
- (8) To ensure that development is planned to fit the topography, soils, geology, hydrology, and other conditions existing on the proposed site.
- (9) To ensure a safe means of ingress and egress for vehicular and pedestrian traffic to and within the slope areas and to provide access for emergency vehicles necessary to serve the slope areas.
- (10) To minimize the high cost of public improvements and maintenance associated with the development of slopes including the need for increased flood control and storm water management measures.

*(Ord. No. 94-198, § 1, 11-8-94)*

**Sec. 20-67. Definitions.**

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meanings given herein. Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices.

*Austin chalk* is a geologic formation composed of alternating beds of chalk and marl. The appearance is fractured, mainly white to buff on weathered surfaces but blue gray when exposed.

*Beyond* is a distance past, measured horizontally from an imaginary line passing vertically through a point.

*City engineer* shall mean that person or group of persons or consultants or any employee thereof that has been appointed as city engineer by the city council.

*Civil engineer* is a registered professional engineer trained in general civil engineering principles and registered in the State of Texas.

*Crest* is that point above the escarpment line where the slope becomes flatter than 4:1.

*Developer* is anyone, including a person, partnership, or corporation submitting a plan for development in the escarpment zone.

*Development* is any manmade change to improved or unimproved real estate, including but not limited to grading, excavating, filling, dumping, removing of vegetation, or erecting of structures.

*Eagle Ford Shale Formation* is a soil formation typically characterized by several feet of dark brown or dark grayish brown soils overlying a tan to olive tan and gray to olive gray, jointed and fissured, relatively dry, residual clay, as shown on the Geologic Map of Dallas County, Texas published by the Dallas Geologic Society, Inc. A copy of the map may be obtained at their offices at One Energy Square, Suite 170, 4925 Greenville Avenue, Dallas, Texas 75206 or by calling (214) 373-8614. Eagle Ford Shale Formation also is shown on the United States Department of Agriculture Soil Conservation Service publication "Soil Survey of Dallas County" which identifies it as the Heiden series, Houston Black series, Lewisville series, Ovan series, Trinity series, Vertel series, and Eddy-Brackett complex.

*Engineer* shall mean a person duly authorized under the provisions of the Texas Engineering Practice Act, as heretofore or hereafter amended, to practice the profession of engineering.

*Escarpment zone* is an environmentally fragile bluff having a slope of 4:1 or slopes located immediately above and below the exposed contact line between the Austin chalk and the Eagle Ford shale. The zone is a linear corridor, whose width is described as the distance:

- (1) The greater of one hundred twenty-five (125) horizontal feet above chalk and shale contact, or thirty-five (35) horizontal feet beyond the crest (that point above the escarpment line where the slope becomes flatter than 4:1); and

- (2) The greater of eighty-five (85) horizontal feet below the chalk and shale contact, or ten (10) horizontal feet beyond the toe (that point below the escarpment line where the slope becomes flatter than 4:1).

*Factor of safety* is a combination of factors which, when considered together, indicate whether the slope is stable at a slip surface location. The factor of safety (**Fs**) is determined using the equation:

$$Fs = \frac{CR L + N \tan Or}{T}$$

where **CR** is the residual cohesive strength; **Or** is the residual angle of internal friction; **L** is the length of the slip surface; **T** is the total driving force tending to cause the slope failure; and **N** is the total normal force acting perpendicularly to the slip surface. The factor of safety should be completed using this basic equation in conjunction with generally accepted and recognized state of the art methods for slope stability studies.

*Geotechnical engineer* is a registered professional engineer trained in geotechnical engineering (soils engineering), has experience in Eagle Ford shale, escarpment zones and is registered in the State of Texas.

*Grading* is any excavation, filling, clearing or combination thereof.

*Person* is a natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of the aforesaid.

*Slope, 4:1* is a slope with an angle described by four (4) horizontal feet to one (1) vertical foot. Stable condition shall mean the slope stability factor of safety as required by this article.

*Structural engineer* is a registered professional engineer, generally civil, with special training in structural and foundation design and registered in the State of Texas.

*Structure* is that which is built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner.

*Toe* is the point below the escarpment line where the slope becomes flatter than 4:1.

(Ord. No. 94-198, § 1, 11-8-94)

### **Sec. 20-68. Applicability.**

- (a) Compliance required. Except as otherwise herein provided, in the escarpment zone, no clearing of natural vegetation, excavation, storage, filing, dumping or other development shall be conducted except when done in compliance with an escarpment development plan submitted pursuant to these regulations.

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- (b) Development plan. Prior to the acceptance for filing of any application for final approval of a development in the escarpment zone, including but not limited to an application for planned unit development, subdivision plat, site plan, developmental plan or building permit, an escarpment development plan that meets the requirements of this article must be approved by the city. If an escarpment development plan has been previously approved for the property, the applicant may rely upon such plan only if the plan addresses the nature and extent of the development proposed.
- (c) Exceptions. The escarpment development regulations shall not apply to the following types of development. An applicant for development may appeal a determination that the application does not qualify for an exception herein listed, or may request a different exception, by filing such appeal or request with the city council in the manner provided in section 20-74.
1. For an existing single-family dwelling, the following types of development are exempt provided that each of the following standards is met:
    - a. Regrading property by cutting or filling by less than four (4) feet in height.
    - b. Removing less than one hundred (100) square feet of ground cover.
    - c. Increasing the size of an existing structure by less than Fifty (50) percent.
  2. Any pending application for a subdivision plat or phase thereof which was accepted for filing prior to the effective date of these regulations.

(Ord. No. 94-198, § 1, 11-8-94)

**Sec. 20-69. Application for approval of escarpment development plan.**

- (a) *Application.* Any person desiring to develop property in the escarpment zone shall submit an escarpment development plan to the city. The application may be submitted simultaneous with another application for development in the escarpment zone, and where allowed by other provisions of the city code, may be processed with such other application. The city may require that information pertaining to the escarpment development plan be included in other development applications within the escarpment zone.
- (b) *Pre-application conference.* Upon request of a developer, or upon request for approval of one (1) of the items listed in section 20-68(b), a pre-application conference between the developer and representatives from the city shall be conducted. The purpose of this meeting shall be to inform the developer as to what information he shall be required to submit for evaluation by the various city departments and the number of copies, which must be submitted. Additionally, a

tentative timetable for the submission of all requested information shall be determined.

(Ord. No. 94-198, § 1, 11-8-94)

**Sec. 20-70. Submission requirements for an escarpment development plan.**

An escarpment development plan shall include the following information, reports and plans:

- (1) *General requirements.* The following general information, maps and drawings:
  - a. The name and address of the developer and a statement of the developer's interest in the proposed development.
  - b. The name and address of any person holding or claiming an ownership interest in the property if different from a. above.
  - c. The name and address of the person preparing the items submitted.
  - d. A general vicinity map of the proposed site on a scale of 1" = 200'.
  - e. A brief description of the proposed development.
  - f. A map outlining the proposed development site within the escarpment zone and showing the contours of the property at a minimum of two-foot intervals with details of the terrain and area drainage on a minimum horizontal scale of 1" = 100' and a vertical scale of 4:1.
  - g. A drawing which shows cross sections for every one hundred (100) linear feet of the property on a maximum scale of 1" = 50'.
- (2) *Soils engineering report.* A soils engineering report, which shall include:
  - a. A description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of the site prepared by a geotechnical engineer.
  - b. A slope stability analysis including slope stability calculations for each new structure proposed to be erected within the escarpment zone and soil tests taken of representative locations within the site to adequately describe the existing geotechnical conditions. All soil tests and calculations for new development within the escarpment zone shall be performed under supervision and sealed by a geotechnical engineer. The structural foundations for all new developments shall be designed and sealed by a structural engineer. The following information shall be submitted along with the slope stability analysis for review by the city:

1. Boring locations;
  2. Driller's logs of borings;
  3. Table of engineering tests including, but not limited to, shear strength tests, moisture content tests, Atterberg limits and swell tests;
  4. Calculations of slope stability analysis indicating shape of slip surface(s), location of slip surface(s), and corresponding factor(s) of safety.
- c. Design recommendations, which include data regarding the nature, distribution and strength of the existing soils; conclusions and recommendations for grading procedures; design criteria for corrective measures when necessary; and opinions and recommendations covering the adequacy of the site. The design recommendations shall be prepared by a registered professional engineer.
- (3) *Grading plan.* Grading plans for any proposed grading in the escarpment zone, which will result in permanent, cut or fill slopes greater than 4:1. The grading plan shall incorporate recommendations from the soils engineering report and contain all necessary information concerning plans for surface and subsurface drainage devices including a drainage area map with drainage calculations prepared by a civil engineer.
- (4) *Soil erosion plan.* A soil erosion control plan prepared by a civil engineer complying with NCTCOG's Storm Water Quality Best Management Practices for Construction Activities. The plan shall include, but is not limited to, the following information:
- a. Type of soil cover (as mapped by the soil conservation service).
  - b. Erodability of mapped soils.
  - c. Existing and proposed development.
  - d. A timing schedule indicating anticipated starting and completion dates of the development sequence and time of exposure of each area prior to completion of control measures.
  - e. All measures to be taken to prevent or control erosion and sedimentation of existing soils during and after construction.
  - f. A detailed site plan, which shows existing vegetative patterns and proposed vegetation removal within the escarpment zone.

- (5) *Restoration plan.* An estimate prepared by a civil engineer of the cost to restore that portion of the development site, which is in the escarpment zone to a stable condition.

(Ord. No. 94-198, § 1, 11-8-94)

**Sec. 20-71. Escarpment development plan review and approval.**

- (a) *Distribution and review.* Upon submission to the city of a completed escarpment development plan, the city engineer shall forward copies of the plan to the public service, fire and park departments and any other interested departments for their review. Outside consultants may be employed to review all or portions of the escarpment development plan where such is deemed necessary by the city engineer. Where a consultant is utilized, the city engineer shall inform the developer of the consultant's name and address.
- (b) *City departments.* After reviewing all information, reports and plans of the escarpment development plan, the various city departments shall submit their evaluations in writing to the city engineer.
- (c) *Decision by city engineer.* The city engineer shall review all information, reports and plans submitted by the developer together with the city department evaluations to determine whether the escarpment development plan meets the standards set forth in section 20-72. The city engineer shall have twenty (20) working days from the date the complete escarpment development plan application is submitted to review the escarpment development plan and either approve it as submitted, approve it with conditions, or deny it and provide the developer with a list of written objections. This time period may be extended for fifteen (15) days upon written notice to the developer by the city engineer stating the reason for the extension. The city engineer's failure to act within twenty (20) days, or thirty-five (35) days if extended, however, shall constitute approval of the plan as submitted.
- (d) *Acceptance of conditions.* If the escarpment development plan is approved with conditions pursuant to section 20-72, the developer shall have ten (10) days to file a notice of acceptance of these conditions, or the plan shall be deemed denied. If the developer accepts the conditions, the developer must submit a plan revised in accordance with these conditions to the city engineer within thirty (30) days of the city engineer's approval unless the developer gives the city engineer written notice of a need for additional time.
- (e) *Amended plan.* If the city engineer denies the escarpment development plan application, the city engineer shall provide the developer with a list of written objections. The developer will then have an opportunity to amend his plan. In all cases, the developer shall have twenty (20) days to respond to the written objections from the city engineer. If the developer does not respond to any written objections and receive approval for an amended plan, the plan shall be deemed denied.

- (f) *Action on amended plan.* If the city engineer submits written objections to the plan to the developer and the developer responds with an amended plan, the city engineer shall have fifteen (15) days to review the amended plan and either approve it, approve it with conditions, or submit additional written objections, or the plan shall be deemed approved. This time period for response to the amended plan may also be extended for fifteen (15) days upon written notice to the developer by the city engineer stating the reason for the extension.

(Ord. No. 94-198, § 1, 11-8-94)

**Sec. 20-72. Standards and conditions.**

- (a) *Approval standards.* The city engineer, or the appeals board or city council, on appeal, shall take action on the escarpment plan in accordance with the following general standards:
- (1) No structure, cut or fill shall be constructed or placed where the slope stability factor of safety is less than 1:5.
  - (2) Development shall be fitted to the topography, soils, geology, and hydrology of the site.
  - (3) Natural vegetation shall be retained and protected wherever possible.
  - (4) When land is exposed during development, the exposure shall be kept to the shortest practical period of time and to as small an area as possible at any one (1) time.
  - (5) Sediment basins or other approved installations shall be installed and maintained to remove sediment from runoff waters from land undergoing development.
  - (6) Discharge of storm water over the escarpment face shall be minimized with no concentrations greater than that in the existing state.
  - (7) Collection and routing shall be implemented through the use of stilling basins, retention basins or flow retardant vegetation. No ponding of water in the escarpment zone will be allowed.
  - (8) Provisions shall be made to effectively accommodate all increased runoff caused by changed soil and surface conditions during and after development.
  - (9) Temporary vegetation and/or mulching shall be used to protect areas exposed during development.

- (10) Erosion control planning and methods shall be in conformance with NCTCOG's Storm Water Quality Best Management Practices for Construction Activities.
  - (11) Shrub borders shall be maintained around woodlands.
  - (12) Preferred landscape plantings shall be indigenous plant species (list published by the Dallas Nature Center).
  - (13) Grading shall be planned so as to have the least disturbances on the area's natural topography, watercourses, vegetation, and wildlife.
  - (14) Topsoil shall be stockpiled and respread on areas where vegetation will be grown after the grading is completed, and methods to ensure maintenance of these areas until vegetation is established shall be implemented.
- (b) *Conditions.* The city engineer, or the appeals board or city council, on appeal, may attach such conditions to the approval of an escarpment development plan as are necessary to carry out the intent and purposes of these escarpment development regulations, based upon the approval standards set forth in subsection (a) above. Conditions may include, but are not necessarily limited to, restrictions on the types and intensity of uses, or the design of structures, that may be placed on the development site; restrictions on the placement or design of roadway and drainage improvements and utilities for the development site; structural improvements to assure the stability of the site or of individual lots or improvements; preservation of existing vegetation or revegetation of the development site; and temporary improvements to insure the stability of the development site during construction.

(Ord. No. 94-198, § 1, 11-8-94)

**Sec. 20-73. Appeal to the appeals board.**

- (a) *Appeal.* Where an escarpment development plan is denied, or is deemed denied after the developer fails to accept attached conditions, the developer may appeal this decision by giving written notice of appeal to the city council. This written notice must be filed with the city secretary's office within fifteen (15) days from the day the escarpment development plan is approved with conditions or denied. The city secretary shall forward this notice to the city council.
- (b) *Constitution of board.* Upon appeal of a case, an appeals board consisting of three (3) persons shall be formed. Within fourteen (14) days of the notice of appeal, both the City Council and the developer shall name one (1) member of this board by giving written notice to the other. The third member of the board will be selected jointly from a list prepared by the city and the developer.
- (c) *Qualifications of board members.* Appeal board members must meet the following qualifications:

- (1) A board member may not be a current employee, agent, or consultant hired by or receiving any remuneration from either the city or the developer.
  - (2) A board member may not have any direct or indirect financial interest in the project.
  - (3) A board member should have some training or experience in the fields of civil, geotechnical engineering or geology.
  - (4) A board member does not have to be resident of the city.
- (d) *Costs.* All expenses incurred by board members shall be reimbursed by the developer.
- (e) *Rules.* The appeal board shall select one (1) of its members to act as chairman. The board may adopt reasonable rules of procedure.
- (f) *Hearing and record.* Within fourteen (14) days of naming all members of the appeal board, the board shall set a time and place for a hearing on the case. Prior to the hearing, all materials previously filed with the city engineer by the developer and all written reports by city departments and the city engineer as well as the city engineer's findings and objections shall be submitted to the board. All appeal hearings shall comply with the Texas Open Meeting Law.
- (g) *Decision.* Upon closing of the hearing, no additional information or evidence may be submitted to the appeal board by any party. The board shall reach its decision within fourteen (14) days of closing the hearing. The board may act to:
- (1) Approve the escarpment development plan as submitted by the developer;
  - (2) Approve the developer's escarpment development plan with conditions in accordance with section 20-72; or
  - (3) Deny the developer's escarpment development plan for specified reasons.
- (h) *Report.* The appeal board shall adopt a written report reflecting the action taken, which resolution shall be forwarded to the city council and to other city departments in accordance with section 20-74. This resolution shall be filed with the city secretary for delivery to the city council and the necessary city departments within five (5) days of its adoption and a copy forwarded to the developer.
- (i) *Acceptance of conditions.* If the escarpment development plan is approved with conditions by the appeals board the developer shall have ten (10) days to file a notice of acceptance of these conditions, or the plan shall be deemed denied. If the

developer accepts the conditions, the developer must submit plans revised in accordance with these conditions to the city engineer within thirty (30) days of the board action, unless the developer gives the city engineer written notice of a need for additional time. If the developer takes no action within thirty (30) days of the board action, the plan shall be deemed denied.

(Ord. No. 94-198, § 1, 11-8-94)

**Sec. 20-74. Appeal to the city council.**

- (a) *Appeal.* Where an escarpment development plan is denied, or is deemed denied after the developer fails to accept attached conditions by an appeals board pursuant to section 20-73, the developer may appeal such decision to the city council alleging that the denial or conditions imposed deprives him of a vested property right to develop his land free from one (1) or more requirements contained in these escarpment development regulations and that the imposition of such requirements deprives him of the economical use of all of the property, by giving written notice of appeal to the city council. This written notice must be filed with the city secretary's office within fifteen (15) days from the day the escarpment development plan is denied by the appeals board or is deemed denied. The application shall state the basis for the appeal with particularity and shall identify any conditions, which the developer believes should be modified, or standards, which should be relaxed in order to provide relief. The city secretary shall forward this notice to the city council.
- (b) *Record and hearing.* Prior to the hearing, all materials previously filed with the city engineer by the developer, all written reports by city departments, the city engineer, and the appeals board, as well as the city engineer's and appeals board's findings and objections shall be submitted to the city council. All appeal hearings shall comply with the Texas Open Meeting Law.
- (c) *Standards.* In deciding whether to grant relief to the applicant based upon such appeal, the city council shall take into consideration the following:
  - (1) The prospective harm to the public's health, safety and welfare if such relief is granted;
  - (2) The extent to which development within the escarpment zone on the proposed development site would constitute a public or private nuisance;
  - (3) The extent to which relief can be provided through redesign of the project;
  - (4) The types and numbers of development permits for the project previously obtained by the applicant;
  - (5) Any construction of structures in reasonable reliance on prior development permits;

- (6) The installation of infrastructure or issuance of bonds to finance such infrastructure to serve development within the escarpment zone;
  - (7) The total expenditures made in connection with the proposed development in reliance on prior development permits, and whether such expenditures were made in connection with the entire project or a particular portion or phase;
  - (8) Any fees reasonably paid in connection with the project;
  - (9) Any representations made by the city concerning the project and reasonably relied upon to the detriment of the applicant.
- (d) *Decision.* Upon closing of the hearing, no additional information or evidence may be submitted to the city council by any party. The city council shall reach its decision within fourteen (14) days of closing the hearing. The city council may act to:
- (1) Modify the decision of the appeals board on developer's escarpment development plan, in order to avoid a deprivation of all economic use of the property. If such action is taken, the city council shall modify conditions or authorize variation from standards contained in this article only to the extent necessary to prevent the deprivation of all economic use.
  - (2) Deny the developer's escarpment development plan for specified reasons.
- Any relief granted by the city council pursuant to such appeal shall be the minimum deviation from ordinance requirements necessary to prevent deprivation of a vested property right.
- (e) *Report.* The city council shall adopt a written report reflecting the action taken. A copy of this resolution shall be forwarded to the developer. The action of the city council shall be final and binding on all parties.
- (f) *Expiration of approval.* Development which is authorized pursuant to such appeal by the city council shall expire, and all claims pertaining to vested rights shall be deemed waived, forfeited and void, if the following conditions occur:
- (1) An application for a development permit approval is not filed within thirty (30) days of the city council's granting of such relief; or
  - (2) Substantial construction pursuant to such development permit, including site grading and the pouring of permanent foundations, is not completed within one (1) year of the issuance of a building permit, or as otherwise provided by the city.

- (g) *Resubmission.* If the escarpment development plan is denied by the city council, the developer must begin the process over by submitting a different escarpment development plan to the city engineer if the developer wishes to develop the property.
- (h) *Acceptance of conditions.* If the escarpment development plan is approved with conditions by the city council, the developer shall have ten (10) days to file a notice of acceptance of these conditions, or the plan shall be deemed denied. If the developer accepts the conditions, the developer must submit plans revised in accordance with these conditions to the city engineer within thirty (30) days of the city council's action, unless the developer gives the city engineer written notice of a need for additional time.

(Ord. No. 94-198, § 1, 11-8-94)

### **Sec. 20-75. Approved escarpment development plans.**

- (a) *Performance bond.* Upon approval of an escarpment development plan, the city engineer shall require the submission of a performance bond in an amount equal to one hundred (100) percent of the estimated cost to restore that portion of the development site which is in the escarpment zone to a stable condition. The performance bond shall guarantee completion of the site development plan. This performance bond shall not represent a guarantee of safety or the cost to restore structures, buildings, etc., above, below, or in the escarpment zone. In determining the amount of the required bond, the cost estimate submitted by the developer may be used, but it is not binding. This bond shall be in the form of a corporate surety bond, underwritten by a licensed insurance company from the State of Texas, a cash bond or a letter of credit from a bank or savings and loan association acceptable to the city. Upon satisfactory completion of all work described in the escarpment development plan within the escarpment zone, the bond will be surrendered. The bond must be submitted and approved by the city engineer before any work may begin at the site.
- (b) *Single-family dwelling exception.* Construction of single-family dwellings shall be excluded from these bonding requirements. Any development activity which damages property and is not repaired is subject to repair by the city. A lien will be filed on the property for all cost incurred by the city.
- (c) *Action on subdivision plat.* If the escarpment development plan was submitted as a result of a request for approval of a subdivision plan, the city engineer shall notify the planning and zoning commission of the grant of approval of the escarpment development plan. The planning and zoning commission shall then require that the existence of the plan and required compliance with these escarpment development regulations be recorded on the subdivision plat. The approved escarpment development plan may not be altered or changed except upon written approval of the city engineer.

- (d) *Action on building permit.* If the escarpment development plan was submitted as a result of a request for a building permit, the plan shall then become a part of the building plans and may not be changed or altered in any way except upon written approval of the city engineer.
- (e) *Lapse.* If actual development does not begin on the site within two (2) years of approval of the escarpment development plan, the escarpment development plan shall expire, unless the developer submits a report to the city engineer signed by a geotechnical engineer stating that there has been no change in existing conditions which requires amending the approved plans, in which case the escarpment development plan may be extended for a period not to exceed one (1) additional year.
- (f) *Maintenance bond.* A maintenance bond which is required for the development by the subdivision ordinance shall include the costs of any improvements required by this article.
- (g) Before final approval of an escarpment development, the developer is required to submit an affidavit signed and sealed by a registered professional engineer in the State of Texas. The affidavit shall read as follows:

"I \_\_\_\_\_ (*Engineer's name*) do hereby state that I and/or trained personnel under my direct supervision, made sufficient site visits to the \_\_\_\_\_ (*project*) during construction to confirm that the construction was done in general compliance with the plans and specifications. The necessary laboratory testing required for quality control was performed by \_\_\_\_\_ (*testing lab*). I have reviewed all testing reports, and there are no incorrect deficiencies. After the completion of the construction, I personally made a final inspection of \_\_\_\_\_ (*project*) on \_\_\_\_\_ (*date*) and all known deficiencies have been corrected.

(Ord. No. 94-198, § 1, 11-8-94; Ord. No. 96-288, § 1, 8-13-96)

#### **Sec. 20-76. Enforcement.**

- (a) Any person conducting development in the escarpment zone without an escarpment development plan, or any person owning, leasing or occupying property in the escarpment zone on which development is being conducted without an escarpment development plan shall be considered to be in violation of this article.
- (b) Each day that development is conducted in the escarpment zone without an escarpment development plan shall be considered a separate violation.
- (c) Any person who shall violate any provision of this article or shall fail to comply, therewith or with any requirement thereof, shall be deemed guilty of a misdemeanor

and shall be liable to a fine, and upon conviction of any such violation in an amount to not exceed that allowed by state law.

*(Ord. No. 94-198, § 1, 11-8-94)*

**Sec. 20-77. Relationship to other regulations.**

The escarpment development regulations established by this article are additional and supplemental to, and not in substitution of any other requirements imposed by the city on the development of land. Such development regulations are intended to be consistent with and to further the policies of the city's master plan, subdivision regulations, comprehensive zoning code, building code, and all other city policies, ordinances and resolutions by which the city seeks to manage the development of land and protect the environment.

*(Ord. No. 94-198, § 1, 11-8-94)*